

Committee Room,
Austin, Texas, Sept. 12, 1917.
Hon. W. L. Dean, President of the
Senate.

Sir: We, your Committee on
Labor, to whom was referred

S. B. No. 16, a bill to be entitled
"An Act authorizing the commission-
ers court of Dallas county, Texas, to
provide a building in the City of
Dallas at or near the court house in
said county, and to establish therein
a woman's rest room or rest rooms
of sufficient dimensions for the com-
fort and convenience of the women
and children from the rural districts
who are called upon to attend court,
or to visit the county site; and
appropriate sufficient money out of
the general fund of said county to
properly maintain said rest room or
rest rooms, and to pay the salaries
of the matron and janitor, and to
provide water, lights and heat for
said building,"

Have had the same under consid-
eration and hereby report the same
back to the Senate with the recom-
mendation that it do pass, and be
not printed, but printed in the Jour-
nal.

McNEALUS, Chairman.

By McNealus. S. B. No. 16.

An Act authorizing the commission-
ers court of Dallas county, Texas,
to provide a building in the City
of Dallas at or near the court
house in said county, and to es-
tablish therein a woman's rest
room or rest rooms of sufficient
dimensions for the comfort and
convenience of the women and
children from the rural districts
who are called upon to attend
court, or to visit the county site;
and appropriate sufficient money
out of the general fund of said
county to properly maintain said
rest room or rest rooms, and to
pay the salaries of the matron and
janitor, and to provide water,
lights and heat for said building.

Be it enacted by the Legislature of
Texas:

Section 1. That the commission-
ers court of Dallas county, Texas,
is authorized to provide a building
of sufficient dimensions, at or near
the court house in the City of Dallas,
and to establish therein a woman's
rest room or rest rooms for the ac-
commodation, comfort, and con-

venience of the women and children
who are called upon to attend court
from the rural districts.

Sec. 2. That in order that said
womans rest room or rest rooms
may be furnished, equipped and pro-
vided with conveniences and com-
forts for those who may desire to
use and occupy said room or rooms,
said commissioners court is author-
ized to appropriate out of the gen-
eral fund of said county each month
a sufficient sum of money to pay all
the expenses of properly maintaining
said rest room or rest rooms includ-
ing the salaries of a matron and
janitor, and to provide water, light,
heat and other expenses incident to
the proper maintenance of said rest
room or rest rooms.

Sec. 3. The short time yet re-
maining of this session, and the fur-
ther fact that there is no provision
under the laws of this State whereby
the commissioners court of Dallas
county can appropriate money out
of the general fund to maintain a
womans rest room for the comfort
and convenience of women and chil-
dren called upon to attend court
creates an emergency and a public
necessity requiring the constitutional
rule requiring bills to be read on
three several days to be suspended,
and said rule is hereby suspended
and this Act shall be in effect from
and after its passage, and it is so
enacted.

TENTH DAY.

Senate Chamber,
Austin, Texas,

Thursday, Sept. 13, 1917.

The Senate met at 9:30 o'clock
a. m., pursuant to adjournment, and
was called to order by President Pro
Tem. Dean.

The roll was called, a quorum
being present, the following Senators
answering to their names:

Alderdice.	Hopkins.
Bailey.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Glark.	McNealus.
Collins.	Page.
Dayton.	Parr.
Dean.	Robbins.
Decherd.	Strickland.
Floyd.	Suiter.
Hall.	Westbrook.
Henderson.	Woodward.

Absent.

Bee.	Hudspeth.
Caldwell.	McCollum.
Gibson.	Smith.
Harley.	

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Alderdice.

Petitions and Memorials.

See Appendix.

Committee Reports.

See Appendix.

Bills and Resolutions.

By Senators Buchanan of Scurry and Hudspeth:

S. B. No. 22, A bill to be entitled "An Act to provide that owners of public free school land purchased from the State of Texas after January 1, 1907, and prior to January 1, 1917, on condition of settlement and residence, which land may hereafter be forfeited for non-payment of interest as now prescribed by law provided said forfeiture was caused by reason of interest accrued or accruing prior to the taking effect of this Act, shall have the right to repurchase not to exceed a complement of eight sections of said lands and leaving any lien and valid contractual right existing in and to the land so repurchased unimpaired; providing for the creation of a commission to revalue such land as may be desired to be repurchased under this Act; and providing that this Act become effective only as to those who are bona fide users of the land sought to be repurchased and providing for an affidavit to be made by persons repurchasing; if demanded, and declaring an emergency."

Read first time and referred to Committee on Public Lands and Land Office.

Senate Concurrent Resolution No. 2.

Be it resolved by the Senate of the State of Texas, the House of Representatives concurring:

Section 1. That the Postoffice De-

partment of the United States Government, and the officers and agents thereof, including the postmaster at the city of Austin, Texas, and the agents and employes of said postoffice and the branch postoffice in the Capitol building, be and they are hereby authorized to back the cars on trucks carrying the mail between said Capitol Station postoffice and the postoffice located in the city of Austin, or between said Capitol Station postoffice and the railway stations, upon the sidewalks or approaches at the north end or side of the Capitol building for the purpose of facilitating the receipt or delivery of mail at said Capitol Station postoffice, and in order to protect such mail and such mail employes from rain and other inclement weather during such delivery or receipt.

And the Superintendent of Public Buildings and Grounds is hereby instructed to permit such practices.

Provided, however, that only rubber-tired vehicles shall be permitted so to use such sidewalks or approaches, and that such use shall be so made as not to interfere with the general use of such sidewalks and approaches by the general public, and the Superintendent of Public Buildings and Grounds is hereby instructed to see that such use is made in accordance with the terms hereof.

LATTIMORE.

The resolution was read and adopted.

Simple Resolution No. 17.

Whereas, That distinguished Texan, Hon. J. N. Browning, of Amarillo, former Lieutenant Governor and presiding officer of this body, is now in the Capitol; therefore be it

Resolved, That Governor Browning be invited to a seat within the Senate and that he be invited to address the Senate.

BEE.

JOHNSON of Hall.

The resolution was read and adopted and ex-Governor Browning was conducted to the President's stand, whereupon he addressed the Senate briefly.

Simple Resolution No. 18.

Whereas, There has been a notable controversy between certain State officials and the University of Texas, in progress for more than a year; and,

Whereas, There is existing among the people of this State the feeling that said investigation should be made; and,

Whereas, It appears to be to the best interest of the State, State government, University and its management and the people of Texas that a thorough, fair, complete and honest investigation be made of the University and its management, that the people of Texas may know the truth concerning the University and its management; therefore be it

Resolved by the Senate, That the President and members of the Senate appoint a committee of five to investigate in a complete, thorough, fair and impartial manner the University and its management and all the charges made against the University. And, for securing the ends of this resolution and carrying out the same and making it effective, said committee shall be vested with the power to subpoena witnesses, compel their attendance before the committee, punish for contempt and refusal to answer questions the same as the district courts of this State, employ a stenographer to keep the proceedings of said committee. Said stenographer, before entering upon the discharge of his duties, shall take an oath to, fairly, impartially and correctly report testimony and acts and doings of the committee. The committee shall determine the compensation for said stenographer.

The committee or any member thereof shall have full power to administer oaths to all witnesses and other parties coming before said committee, and have full and complete control of all proceedings before said committee. It shall be the duty of this committee to fully and completely investigate the University and its management in every detail deemed advisable by the committee. Four members of this committee shall constitute a quorum to do business. Said committee shall report its findings with such recommendations as it may deem advisable to the next regular session of the Legislature.

The members of this committee

shall be allowed five dollars per day for time actually spent in investigation, while the Legislature is not in session. Witnesses shall receive same fees as they receive for attendance upon the district courts of this State; therefore be it further

Resolved, That the sum of fifteen thousand dollars, or so much thereof as may be deemed necessary, is hereby set aside to bear the expenses of this investigation, out of the contingent funds of this Legislature.

DAYTON.
CLARK.

The resolution was read, and, Senator Westbrook offered the following amendment:

Amend the resolution by adding after the third paragraph the following: "And resolved further, that an investigation shall be made of every other State institution and every State department of government as provided in this resolution for the investigation of the University."

WESTBROOK.

Pending discussion, Senator Westbrook, by unanimous consent, withdrew the amendment for the purpose of offering same as a substitute.

On motion of Senator Dayton, further consideration of the resolution was postponed until tomorrow morning.

Morning call concluded.

Executive Session—Time Set.

Senator Johnston of Harris moved that all nominations by the Governor not already referred be now referred to the Committee on Nominations with instructions to report tomorrow morning; and that the Senate go into executive session at 9:30 o'clock a. m. Friday, September 14, 1917, for consideration of all nominations by the Governor.

The motion prevailed.

Simple Resolution No. 19.

Resolved that the Chairman of the Contingent Expense Committee be authorized to pay two dollars and seventy-five cents to Jno. L. Martin

for rent of one fan used one month in the Senate postoffice.

CALDWELL.

The resolution was read and adopted.

Senate Bill No. 7.

The Chair laid before the Senate on second reading:

S. B. No. 7, A bill to be entitled "An Act to prevent the introduction into the State of Texas, of the destructive cotton pest, *Pectinophera gossypiella* Saund., hereinafter referred to as the pink boll worm, and to control and eradicate such insect pest in the event its presence in this State is discovered; creating a zone along the southern and southwestern boundary of the State from which cotton and cotton products may not be transported; providing for the inspection of fields of cotton and for the inspection and general control of cotton produced in an inspection zone; and to provide for the quarantine and control of any territory within the State within which the pink boll worm may be found; providing for an appropriation and creating an emergency."

Senator Page offered the following amendment:

Amend the bill line 24, page 1, by changing the "comma" after Maverick to a "period" and by striking out the words "Webb, Val Verde, Kinney and Maverick."

Amend the bill further, line 29, page 1, by striking out the word "or" between Hidalgo and Starr, and by inserting after the word "Starr" the words "Webb, Zapata, Val Verde, Kinney and Maverick."

Amend the bill further, line 1, page 2, by striking out the word "and" being the first word in line 1 and inserting after the word Cameron, "Webb, Zapata, Val Verde, Kinney and Maverick."

Amend the bill further, line 3, by inserting after Cameron the words "Webb, Zapata, Val Verde, Kinney, and Maverick."

Amend the bill further, line 10, page 2, by striking out the word "and" between Hidalgo and Cameron and inserting after Cameron the

words "Webb, Zapata, Val Verde, Kinney and Maverick."

PAGE.

PARR.

HUDSPETH.

The amendment was read and adopted.

The bill was read second time and passed to engrossment.

On motion of Senator Page, the constitutional rule requiring bills to be read on three several days was suspended and Senate Bill No. 7 put on its third reading and final passage by the following vote:

Yeas—27.

Alderdice.	Johnson of Hall.
Bailey.	Johnston of Harris.
Bee.	Lattimore.
Buchanan of Bell.	McCollum.
Buchanan of Scurry.	McNealus.
Caldwell.	Page.
Clark.	Parr.
Dayton.	Robbins.
Dean.	Smith.
Floyd.	Strickland.
Gibson.	Suiter.
Henderson.	Westbrook.
Hopkins.	Woodward.
Hudspeth.	

Absent.

Collins.	Hall.
Decherd.	Harley.

The bill was laid before the Senate, read third time, on motion of Senator Page, was passed by the following vote:

Yeas—28.

Alderdice.	Hudspeth.
Bailey.	Johnson of Hall.
Bee.	Johnston of Harris.
Buchanan of Bell.	Lattimore.
Buchanan of Scurry.	McCollum.
Caldwell.	McNealus.
Clark.	Page.
Dayton.	Parr.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Gibson.	Suiter.
Henderson.	Westbrook.
Hopkins.	Woodward.

Absent.

Collins.	Harley.
Hall.	

Senate Bill No. 16.

The Chair laid before the Senate on second reading:

S. B. No. 16, A bill to be entitled "An Act authorizing the commissioners court of Dallas County, Texas, to provide a building in the City of Dallas at or near the court house in said county, and to establish therein a woman's rest room or rest rooms of sufficient dimensions for the comfort and convenience of the women and children from the rural districts who are called upon to attend court, or to visit the county site; and appropriate sufficient money out of the general fund of said county to properly maintain said rest room or rest rooms, and to pay the salaries of the matron and janitor, and to provide water, lights and heat for said building."

The committee report that the bill be printed in the Journal only was adopted.

The bill was read second time and passed to engrossment.

On motion of Senator McNealus, the constitutional rule requiring bills to be read on three several days was suspended and Senate Bill No. 16 put on its third reading and final passage by the following vote:

Yeas—29.

Alderdice.	Hudspeth.
Bailey.	Johnson of Hall.
Bee.	Johnston of Harris.
Buchanan of Bell.	Lattimore.
Buchanan of Scurry.	McCollum.
Caldwell.	McNealus.
Clark.	Page.
Collins.	Parr.
Dayton.	Robbins.
Dean.	Smith.
Decherd.	Strickland.
Floyd.	Suiter.
Gibson.	Westbrook.
Henderson.	Woodward.
Hopkins.	

Absent.

Hall.

Harley.

The bill was laid before the Senate, read third time, and, on motion of Senator McNealus, was passed by the following vote:

Yeas—28.

Alderdice.	Buchanan of Bell.
Bailey.	Buchanan of Scurry.
Bee.	Caldwell.

Clark.	Lattimore.
Collins.	McCollum.
Dayton.	McNealus.
Dean.	Page.
Floyd.	Parr.
Gibson.	Robbins.
Henderson.	Smith.
Hopkins.	Strickland.
Hudspeth.	Suiter.
Johnson of Hall.	Westbrook.
Johnston of Harris.	Woodward.

Absent.

Decherd.
Hall.

Harley.

Senator McNealus moved to reconsider the vote by which Senate Bill No. 16 was passed and table the motion to reconsider.

The motion to table prevailed.

The Senate as Court of Impeachment.**PROCEEDINGS.**

Thursday, September 13, 1917.

Morning Session.

Senate Chamber, Austin, Texas.

(Pursuant to adjournment, the Senate, sitting as a High Court of Impeachment, reconvened at 10:45 a. m., the regular hour for reconvening, 10:00 o'clock a. m., having been extended on motion, in order to give counsel for Respondent an opportunity to locate and confer with certain witnesses; and also to permit the Senate to dispose of certain matters before resolving itself into a Court of Impeachment.)

At 10:45 a. m. the Chair announced:

The Chair: The hour has now arrived for the convening of the Court of Impeachment. The Sergeant-at-Arms will proclaim the convening of the Court of Impeachment and see that no one is inside of the Chamber except those who are entitled to its privileges.

The Sergeant-at-Arms (At the door of the Senate): Oyez! Oyez! Oyez! the Senate, sitting as a Court of Impeachment is now in session.

The Chair: Now, we would like for the members of the Court to get in a position where they can hear the proceedings, and let us have perfect order in the Chamber and in the gallery.

Mr. Hanger: Call Mr. Blum around, please. (To General Crane): Did

you have some evidence you wanted to introduce this morning?

General Crane: Yes.

Mr. Hanger: Well, all right.

General Crane: Mr. Chairman.

The Chair: General Crane.

General Crane: Before we proceed with that, there were two or three omissions.

General Crane: We now offer the letter offered sometime before the admission of the testimony of the Governor, written by Mr. Patterson, the Bank Commissioner.

Mr. Hanger: Let me see that (taking paper). We think yet that this letter is inadmissible, Mr. President, because there is not anything in the statement of the Governor—the testimony of the Governor that goes beyond the statement that he knew that Mr. Patterson had made a deposit, I believe—is the testimony wanted?

General Crane: Oh, yes, counsel has forgotten that he stated they had a conversation about this very matter, about making deposits, and what a good lawyer Mr. Patterson was.

Mr. Hanger: Sure?

General Crane: Yes.

Mr. Hanger: But there is not anything, Mr. President, indicative of the fact that the Governor ever knew anything about this letter, or any statement made in it.

General Crane: No, that is true.

Mr. Hanger: The bare recital of the fact that he was a good lawyer and they had a talk about this matter of deposits would not bind him for the statements made here, he couldn't be bound by these statements made here. Has the Chair seen this letter?

The Chair: Yes, sir, the Chair has seen the letter. I am not clear as to the testimony into the record yesterday, given by the Governor on the former investigation, as to what passed between him and Mr. Patterson.

Mr. Hanger: Yes, I would be glad for the Chair to look at that. (To General Crane): Can you refer to that page? I could not—

The Chair: If you can find it there, General.

Mr. Hanger: Let the Chair swear this witness—no, Mr. Blum has been sworn.

The Chair: Mr. Blum was sworn.

Mr. Hanger: Yes, sir. Swear Mr. Hargon while they are finding that.

The Chair: Come around and give the Secretary your name, Mr. Hargon.

MR. F. H. HARGON

presented himself at the bar of the Court and was administered the following oath by the Chair:

"You do solemnly swear that the evidence you shall give in this hearing by the Senate of Texas upon the impeachment charges against James E. Ferguson shall be the truth, the whole truth, and nothing but the truth, so help you God?"

You are instructed, Mr. Hargon, that the rule is invoked, and you will not discuss this case with any person, except the attorneys, and will retire from the Chamber until called.

General Crane (referring to printed record): Here it is.

Mr. Hanger: What page, General?

General Crane: Page 391 of the Journal.

The Chair: You might read it, General.

General Crane: Sir?

The Chair: Will you read that?

General Crane: Well, discussion on the first part of the page, he says: "While the charge does not so state, I take it for granted from the questions heretofore asked, that reference is made to the account kept by the Secretary of State in the Temple State Bank. Previous to May of each year, I think it is May the 1st, or probably it might be some other day in May, but as I recollect it, May 1st, the franchise taxes due and owing by the respective corporations in the State are payable and are paid into the hands of the Secretary of State, and he issues his official receipt therefor after he has collected it, I think it was—anyhow, at that time, at the time, at the date wherein the item of \$250,000 is discussed here, and perhaps previous, probably a month or two previous to that, I had said to the Secretary of State that, 'I understand you have large sums coming into your possession for the payment of franchise taxes. As the law requires you to settle at the end of each quarter, at a time when you are required to file your official report, and before which time you cannot pay any money into the Treasury.'"

Then, coming on down is a question from his counsel:

Q. Let me interrupt you long.

enough to ask you this question: Some statement has been made here, or some contention has been made that these payments should have been made monthly. Who was John S. Patterson?

A. John S. Patterson was, at his death, the Banking Commissioner of Texas.

Q. Was he a lawyer?

A. He was one of the best lawyers of his age in Texas.

Q. Did you have any character of advice from him, or did he investigate at any time, or make any report to you, at any time, about these reports?

A. Yes, sir; when it appeared that previous to his coming to Austin, and my coming to Austin, that it had been the custom for some of the officials to deposit monthly—but I want to say right here, that so far as I have been able to learn from diligent inquiry from every source open to me; it has never been the custom in Austin, nor do I consider, nor has anybody else considered it, the law, that anybody should deposit the money in the Treasury the very minute that they receive it; no department, so far as I have been informed, the Land Office, the Comptroller, the Attorney General, the Secretary of State, or any other heads of the departments, have ever done any more than to deposit monthly.

That is the statement, that they were in consultation about this very question, and then here is the conclusion of John S. Patterson in his letter to the Temple State Bank, as the result of that consultation and as accompanying the deposit made therewith.

Mr. Hanger: We submit that the letter does not prove it, and all the statement here is that they conferred about when the reports would have to be made, that is all.

The Chair: Is objection made to the letter?

Mr. Hanger: No, the objection is that the statement in the letter does not prove the fact that the Governor knew anything about it. I do not claim that the letter was not written by him, of course not.

The Chair: Well, the Chair is of the opinion that the letter accompanying the deposit, taken in connection with it, is admissible to show what was done or might

have been done, and goes to the question of weight to be given the testimony, probably—shows the action taken by the Banking Commissioner in pursuance of the request by Respondent, in the testimony read, so the objection will be overruled.

(General Crane thereupon read into the record the following letter, to wit):

July 23, 1915.

Temple State Bank,
Temple, Texas.

Gentlemen: I have this day made a deposit with the Citizens Bank & Trust Company of Austin, Texas, to your credit in the sum of \$490. It is my intention to deposit from time to time with the Citizens Bank & Trust Company to your credit the fees paid by the banks for examination. These deposits probably will be made weekly, and will probably amount to \$6,000 or \$7,000 per month.

On the first of each quarter, we are required to pay this money into the State Treasury. Our fiscal year begins on the 1st of September, and the quarters count from that date. The first payment to be made by you will be on September 1, 1915, and thereafter, at the end of each quarter. It is our desire that the State Treasurer be paid with Austin Exchange. It is our further desire that this money be kept with a State bank, and it is for that reason that the deposit was made with the Citizens Bank & Trust Company to the credit of the Temple State Bank, with the understanding that the money would remain in Austin to your credit, and they would pay you 2 per cent upon the daily balances, and at the end of each quarter, you could send us Austin Exchange on the Citizens Bank & Trust Company payable to the State Treasurer, J. M. Edwards, for the amount of this balance. We trust that this arrangement will be perfectly satisfactory to you, and that the account will be of some benefit, both to your good bank and to the Citizens Bank & Trust Company as well.

If this arrangement is not perfectly satisfactory to you, please advise me, and oblige,

Very truly yours,

John S. Patterson,
Commissioner.

The Chair: Anything further, General?

Mr. Harris: Just a minute.

General Crane (passing letter to Mr. Hanger): Look at that. That is the Governor's signature.

Mr. Hanger: Is this one of the additional letters that Mr. Blum brought down?

General Crane: I don't know. (To Mr. Harris): Did you get this from Mr. Blum?

Mr. Harris: Yes, sir.

Mr. Hanger: Well, we think you ought to prove it up by Mr. Blum. We do not object to the signature.

Thereupon, the Proponents recalled

H. F. BLUM, ESQ.,

who had been previously sworn, and who now, in answer to questions propounded, further testified as follows, to wit:

Direct Examination.

By General Crane.

Q. Mr. Blum, have you been sworn?

A. Yes, sir.

Q. Just one question: Is that the Governor's signature (letter to the witness)?

A. It is, yes, sir.

General Crane: That is all we want.

Cross Examination.

By Mr. Hanger.

Q. Was it received by you?

A. Yes, sir.

Q. Was it received by you in due course of mail?

A. Yes, sir.

Mr. Hanger: I did not question the signature.

General Crane: Well, that is all.

General Crane: We offer this letter in evidence. (Reading):

June 1, 1917.

Temple State Bank, Temple, Texas.

Gentlemen: Please send me at once an exact copy of the account of Jas. E. Ferguson, Special, which was closed some time ago. This is the account with the Dayton Lumber Company. Yours truly,

Jas. E. Ferguson.

Mr. Hanger: That is June 1, 1917?

General Crane: Yes, sir. Now, we omitted a while ago, perhaps, to offer the letter guaranteeing the in-

debtedness, written by Governor Ferguson. I read it as printed in the Journal.

Mr. Hanger: I think that is in, but read it again, read it again.

General Crane: Well, somebody said "No." I thought it was in, too.

Mr. Hanger: It was in two or three days ago, but read it again.

(General Crane thereupon read the following letter into the record, to wit):

February 5, 1917.

Temple State Bank,

Temple, Texas.

Gentlemen:

In accordance with our understanding, this is to say that I personally guarantee the payment of the notes of Alvah F. Ferguson, James H. Davis, Jr., and the Bell-Bosque Stock Farm for the sum of \$37,500.00.

Senator Page: Did you give the date of that communication?

Mr. Harris: February 13th.

Mr. Hanger: February 5th.

Mr. Harris: February 5th, that is correct.

Mr. Hanger: 1917.

General Crane: February 5, 1917, and signed by Jas. E. Ferguson. Now, it is a little out of order, but I offer another letter of John S. Patterson, of August 9, 1915, addressed to C. A. Hughes, Cashier of the Temple State Bank.

The Chair: I didn't read that letter, it was passed up.

General Crane: It is on precisely the same subject; it was the change from one bank to the other. (To Mr. Hanger): You do not object to the form of it?

Mr. Hanger: I do not object to the form of it.

(General Crane thereupon read into the record the following letter, to wit):

August 9, 1915.

Mr. C. A. Hughes, Cashier,

Temple State Bank,

Temple, Texas.

Dear Sir:

I am in receipt of your letter thanking me for making a deposit to the credit of the Temple State Bank with the Citizens Bank & Trust Company of Austin. Since this deposit was made, I have been advised that you had an account with the American National Bank, and would prefer to have the deposits made with that bank to your credit. It is immaterial to me in which bank the account is carried.

I simply want to favor you, and the only request I have to make is that you keep a balance with a local bank sufficient to liquidate our account with Austin Exchange to the State Treasurer at the end of each quarter.

Very truly yours,

Commissioner.

General Crane: Now, we offer in evidence a carbon copy of a letter of W. R. Brents, written to Dr. R. E. Vinson, of date October 6, 1916, which antedated his appointment as Regent, just to show that he did not solicit the appointment.

Mr. Hanger: That is the same one offered the other day. We renew the objection that it is a self-serving statement.

The Chair: Yes, the Chair thinks that is not admissible, unless there is evidence that he did solicit the appointment or had sought the appointment. There is no evidence here so far as the Chair recalls showing that Mr. Brents sought the appointment.

General Crane: The Governor charged that.

The Chair: It might be admissible on the trial of Mr. Brents.

General Crane: Yes. Well, we will not—the evidence shows, Mr. President, that the Governor urged that he should act with him because he had solicited the appointment, that evidence is before the Court.

Mr. Hanger: They offered it.

General Crane: We offered that as a necessary part of showing his efforts to control Brents. And now we offer this to show that he was seeking to control him upon a proposition that had no foundation in fact, that his memory was at fault, that Brents had not sought the appointment,—and yet, he was seeking to control him upon the hypothesis that he had.

The Chair: The testimony was, that letter was between other parties entirely, and in the opinion of the Chair it is hearsay, so far as the Respondent is concerned—unless it were shown that the witness Brents made other statements about which they testified.

General Crane: Very well, sir, we do not regard it as of very great importance.

Mr. Hanger: We want to ask this witness a question.

General Crane: All right, let him go away—we want to put another witness on the stand.

Mr. Hanger: Yes, I understand.

Cross Examination
By Mr. Hanger.

Q. Mr. Blum, this letter that General Crane had you identify, dated June 1, 1917, was that one of a package of letters which you brought down here at the request of the attorneys for the Managers?

A. It was, yes, sir.

Q. Were there any others that you turned over to one of the counsel for the Managers?

A. Yes, sir, I turned over quite a number, and that was one which he took out of the bunch.

Q. Well, is this the package of letters which I—is this the package that was submitted by you to Mr. Harris (indicating bunch of letters)?

A. It is, yes, sir.

Q. How many letters are there here written by J. H. Davis, Jr., about the Governor's private affairs, do you know?

A. There are something like eighty-five or ninety letters there in the stack.

Q. Were they exhibited to Mr. Harris, of counsel for the Managers?

A. They were, yes, sir.

Q. Now, there are two other letters besides these, one here, I believe—did you turn over that to him?

A. Four letters, I believe, that I turned over to Mr. Harris.

Q. Three, weren't there—I see it marked here on the back—no, four is right. I am just wanting, not what is in the letters, so much as how many there were?

Mr. Harris: They were in reply to letters by the Governor.

Q. Was this letter here examined by Mr. Harris, the first of them?

A. Yes, sir, it was, all, I think.

Mr. Hanger: We desire to read this letter at this place (reading):

January 20, 1915.

Temple State Bank,

Temple, Texas.

Gentlemen:

I herewith hand you draft by the First State Bank of Canyon, Texas, No. 3367, on the National Reserve Bank of Kansas City, Missouri, for five thousand eighty-one and 11-100 (\$5,081.11) dollars, which you will please place to the credit of Jas. E. Ferguson, Governor.

The Governor asks me to say to you to not increase your loans on the

strength of this deposit, but to just hold it on deposit.

General Crane: Now, Mr. Chairman, I thought that was a letter to Governor Ferguson that was offered. I wish now to protest against any statement Mr. Davis makes, unless he has proven his agency by putting him on the witness stand. Let him explain it.

Mr. Hanger: They offered fifteen letters here the other day by Mr. Davis, and forty by the Governor, in order to show that Mr. Davis was not attending to the private affairs of the Governor, but that he was attending to it himself.

General Crane: No—

Mr. Hanger: That was the purpose for which they said they offered it, whether it was the purpose or not. And these letters are offered now for the purpose of showing that Mr. Davis was transacting the private business of the Governor. In addition to that, there was exhibited to them a statement showing that the Governor had ordered this money not to be loaned, or no loans to be made against it, and we will show in the proper order, just as soon as we can put a witness on the stand, that Mr. Davis was acting as the agent for the Governor in this transaction.

General Crane: I think, Mr. President, that counsel has misunderstood the situation. We did not, as I understand, offer any letters of J. H. Davis. We offered about forty-five written by Governor Ferguson on the proposition that J. H. Davis was not managing all of his business, that the Governor was giving personal attention to his business—and one particularly of date March 30, 1916, in which he asked for a settlement of his account as Governor. Now, we called attention to the fact, and proved by this witness only, as I recall the record, that there were only fourteen letters that he had exhibited to us under the same subpoena as having been written by J. H. Davis, and we did not read those letters into the record and show the forty-five as against the fourteen that he brought, assuming that he was correct, that they were, or all of them, to show that Governor Ferguson had not turned over all his private affairs to J. H. Davis, but that he was giving them some personal attention himself.

Mr. Hanger: I call the Chair's attention to this fact: they proved that certain deposits of certain money

were made by J. H. Davis as Private Secretary and as agent of the Governor, they have proved that here, and they have established his agency in the transaction of his private affairs. If that has not been sufficient to satisfy the Chair and the Court, we are going to establish it.

General Crane: Now, my objection was, Mr. President, that these letters containing recitals in the nature of hearsay, as to what Governor Ferguson said, ought not to be proven by a written letter, self-serving letter of his agent; but if it is sought to prove by that witness what Governor Ferguson said, that witness ought to take the stand, so he could submit himself to cross-examination. But to prove Governor Ferguson's statements by letters written in the course of business, we believe is not the correct way to do that.

Mr. Hanger: I evidently have been so unfortunate in the use of the language I have employed that counsel has got the force of the testimony that we seek to offer. We seek to offer this testimony to show that counsel for the Managers knew that there was a statement here that the Governor had forbidden the loan of money against this fund, and that other letters were taken out of the files to be introduced, and this one was not.

The Chair: The Chair is of the opinion that this particular letter on that issue ought to be admitted. I am not ruling on the admissibility of all the letters.

Mr. Hanger: We are going to put Mr. Davis on the stand and establish agency and authority to write that letter.

The Chair: With that understanding it is admitted.

General Crane: Very good.

Mr. Hanger: We are going to do it.

Q. (Mr. Hanger resuming examination): Were you excused after giving those four letters to counsel, and given any directions or instructions?

A. I was excused, yes, sir.

Mr. Harris: Now, the witness ought to be asked about that. He asked to be excused, he asked me if he could be excused, and I told him he could be excused.

Q. He did not keep this letter?

A. No, sir.

Q. He told you you could go back to Temple?

A. He did.

Q. That is all.

Mr. Harris: Let me ask him a question.

The Chair: Any questions by counsel for the Managers? Are you through, Mr. Hanger?

Mr. Harris: No, sir, I am not through.

The Chair: All right, you may proceed,

Re-direct Examination
By Mr. Harris.

Q. Mr. Blum, you wrote me a letter asking me to let you go back, saying that you wanted to go back to Temple, didn't you—sent a note in here?

A. I sent a note in here and asked if I could be excused, yes, sir.

Q. Yes, sir; and then I told you if you would let me look over the letters and if you wanted to go back, you could be excused—

A. Yes, sir.

Q. If the other side didn't, hold you?

A. That is correct.

Q. I didn't ask you if you wanted to be excused?

A. No, sir, you told me I could be excused.

Q. Didn't you repeat the request out there that you wanted to go back, and didn't you say, "Mr. Harris, I will come back any minute you want me, or anybody else wants me?"

A. I don't remember that, no, sir.

Q. But you do remember writing me a note?

A. Yes, sir.

Q. Now, the four letters I took out were this one of Jno. S. Patterson that has has been spoken of?

A. That's correct.

Q. It was this note of James E. Ferguson, of June 1st, asking that you send him a statement of his account with the Dayton Lumber Company?

A. That is right, yes, sir.

Q. Then I asked you for a letter of March 30th, that had already been introduced, in which Governor Ferguson asked for a statement of his account as Governor—that had already been introduced?

A. That is correct.

Q. The other letter you left me was the letter replying to his letter in reference to that statement, wasn't it—"Agreeable to your request of the first I herewith enclose

you an exact copy of your account of Jas. E. Ferguson, Special. Hoping this will serve its purpose and with highest personal regards, I remain."

A. That is correct.

Q. That is the fourth letter, isn't it?

A. Yes, sir.

Q. And those letters were taken on the assumption that you were going to return to Temple until you were called again—isn't that true?

A. What is the question again?

Q. I say, those letters were taken by me upon the assumption that you wanted to return to Temple, as you had said to me you wanted to return, that is true, isn't it?

A. Well, I don't know what you took them out for.

Q. I see. Well, you consented to it?

A. Why, certainly, yes, sir.

Q. All right, sir. Now, the Senator asked you about one letter from Mr. Davis. I want to ask you about some others. There are four or five letters; I will have to find the one I want. A good many of these notes are in reference to Mr. J. H. Davis' personal affairs, are they not? That is a personal note, isn't it?

General Crane: Give the date.

Q. What is the date of that?

A. August 14, 1916.

Q. This is August 20th.

A. August 20th, yes, sir.

Q. When you first brought these letters here you did not have a letter after September 1, 1916, in the file, did you?

A. I don't remember about that. There were a few I omitted through accident and sent for them, yes, sir.

Q. I see. This is a 'personal'—here is a letter of Mr. Davis' that you had in your file, isn't it—depositing some money to the account of Jas. E. Ferguson, Governor?

A. That is correct, yes, sir.

Q. There is nothing in that about not loaning it, is there—what is the date of that letter?

A. This letter is dated August 2, 1915.

General Crane: Read it into the record.

Mr. Harris: I will read it into the record (reading):

"August 2, 1915.

"Temple State Bank, Temple, Texas.

"Gentlemen: At the direction of the Governor I herewith enclose you two drafts for \$1000 each; one by

the Citizens State Bank of Bastrop on the Union National Bank of Houston, and the other by the First State Bank and Trust Company of Taylor. Please place the proceeds of these two drafts to the credit of Jas. E. Ferguson, Governor.

"Yours truly,

"J. H. Davis, Jr.,

"Asst. Secretary.

"P. S.—I also enclose you draft by Heidenheimer State Bank on City National, Galveston, for \$1000 which you will also place to the credit of Jas. E. Ferguson, Governor. J. H. D."

Q. This letter was in your file, wasn't it?

A. It was, yes, sir.

Mr. Harris: (Reading.)

"August 4, 1915.

"Temple State Bank, Temple, Texas.

"Gentlemen: I herewith enclose you draft by Lubbock State Bank on First National Bank of Fort Worth for \$1000 and draft in like sum by the First National Bank of Amarillo on the Austin National Bank, which you will please place to the credit of Jas. E. Ferguson, Governor.

"Yours truly,

"J. H. Davis, Jr."

Senator Bee: What is the date of those letters?

Mr. Harris: August 4, 1915.

Q. That letter was also in the file? Did Senator Hanger go through this file?

A. He did, yes, sir.

Mr. Hanger: Yes, and we offer all the letters, every one of them.

Mr. Harris: I just did that, Senator, in view of your question.

Mr. Hanger: That is what they are here for, that is what we produced them for—to offer them all.

Q. Was this a letter relating to that account—his account as Governor?

A. It was, yes, sir.

Mr. Harris (reading):

"June 9, 1915.

"Temple State Bank,

"Temple, Texas.

"Gentlemen: Herewith enclosed find draft by Third National Bank of Plainview on the Fort Worth National Bank for \$607.07, which amount you will please place to the credit of Jas. E. Ferguson, Governor.

"In reference to the Eastland County bonds I beg to advise that the matter has been just recently again called to the attention of the Governor, and I cannot say what will be done at the meeting of the board tomorrow. Will advise as soon as I know anything definite.

"With best wishes, and assuring you of my pleasure to serve you in any way I can, I am,

"Sincerely yours,

"J. H. Davis, Jr."

Q. This letter was in the file, too, wasn't it?

A. Yes, sir.

Mr. Harris (reading):

"May 19, 1915.

"Temple State Bank,

"Temple, Texas.

"Gentlemen: Herewith enclosed please find draft by Third National Bank of Plainview on Fort Worth National Bank for \$2,500, which amount please place to the account of Jas. E. Ferguson, Governor, sending duplicate deposit slip.

"Sincerely yours,

"J. H. Davis, Jr."

"Assistant Secretary."

Senator Hudspeth: What is the purpose of that?

Mr. Harris: Sir?

Senator Hudspeth: What is the purpose of that?

Mr. Harris: To show that in no deposit did he make a request with reference to not lending the money, Senator—that is, my purpose—excepting the one of Jan. 1st, the first deposit.

Q. What is that letter?

A. That is another letter from our file.

Mr. Harris (reading):

"April 22, 1915.

"Temple State Bank,

"Temple, Texas.

"Gentlemen: Enclosed please find draft on the National City Bank of New York for \$2,500, which you will please place to the credit of Jas. E. Ferguson, Governor.

"Yours truly,

"J. H. Davis, Jr."

"Assistant Secretary."

Q. This letter was in the file, too, wasn't it?

A. Yes, sir.

Mr. Harris: September 3rd, 1915

—I want to introduce this date particularly, September 3rd, 1915, in reference to the date of August 23rd, 1915 (reading):

"September 3, 1915.

"Temple State Bank,
"Temple, Texas.

"Gentlemen: Please send me statement of Jas. E. Ferguson, Governor account, and also his personal account, up to September 1st, 1915.

"Yours truly,
"J. H. Davis, Jr."

Mr. Harris: As some of the Senators were absent when I introduced this letter, I want to read the letter of March 30th, 1916, written by Governor Ferguson to the Temple State Bank (reading):

"March 30, 1916.

"Temple State Bank,
"Temple, Texas.

"Gentlemen: Please mail me a statement of my account as Governor.

"Yours truly,
Jas. E. Ferguson,
"Governor."

Mr. Harris: That was introduced once, but I think some of the Senators were absent when it was introduced.

Q. Now, when they would send up money to be deposited to the account of Jas. E. Ferguson, personal, they generally underscored the word "personal," didn't they?

A. They did.

Q. Was that the general policy?

A. No, that was not the general policy.

Q. It occurred in a number of letters?

A. Yes.

Q. It occurred in these three right here, didn't it?

Mr. Harris (reading):

"March 3, 1916.

"Temple State Bank,
"Temple, Texas.

"Gentlemen: Please remit to American National Bank of Austin, Texas, for credit of Governor Jas. E. Ferguson, the sum of \$3,000, charging his account accordingly.

"Yours truly,
"J. H. Davis, Jr.

"Make the remittance read 'for credit of Jas. E. Ferguson, Governor.'
"J. H. D."

General Crane: Who signed it?

Mr. Harris: J. H. Davis, Jr. This is the Davis file.

General Crane: Unless there is some other—

Mr. Harris: I think that is all. Here is another instance where they underscored *Jas. E. Ferguson, personal* in order to distinguish it?

The Witness: That is correct.

General Crane: Read that.

Mr. Harris (Reading):

"May 6, 1916.

"Temple State Bank,
"Temple, Texas.

"Gentlemen:
"Enclosed herewith please find draft of Rhome Farmer Commission Company"—

Senator Alderdice: Mr. President.
The Chair: The Senator from Ellis.

Senator Alderdice: Will counsel read a little louder, please?

The Chair: Counsel will please read a little louder.

Mr. Harris: Yes, sir.

The Chair: Mr. Harris, just a minute. Let's have order in the Chamber, please—no talking.

Mr. Harris (Continuing to read)

"May 6, 1916.

"Temple State Bank,
"Temple, Texas.

"Gentlemen:
"Enclosed herewith please find draft of Rhome Farmer Commission Company for \$1,266.76 which amount please pass to the credit of *Jas. E. Ferguson, Personal*.

"Yours truly,
"J. H. Davis, Jr."

Mr. Harris: I was introducing that just to show, as some other letters I had introduced, that they would underscore that.

(Reading):

"February 2, 1916.

"Mr. C. A. Hughes, Cashier, Temple, Texas.

"Dear Mr. Hughes: This will confirm our telephone conversation today in which I requested you to remit the American National Bank of Austin exchange for \$6000 charging Jas. E. Ferguson, Governor, account to cover.

"Yours very truly,

"J. H. Davis, Jr.,

"Assistant Secretary."

Mr. Harris: That is all.

The Chair: Anything further relating to this?

Mr. Hanger: We desire to introduce all these letters—those which have been read, as well as those which have not been read.

Mr. Harris: We have no objection.

General Crane: Just let them be considered in the record, then.

Mr. Hanger: Mr. Blum, you will have to leave them here and let the stenographer copy them. Is that the file?

The Witness: I think it is.

Mr. Hanger: That is all, Mr. Blum.

(The letters offered in evidence by Mr. Hanger on behalf of the Respondent, from "the Davis file," above referred to, are here set out and read as follows, respectively, to wit:)

"January 27, 1915.

"Mr. Hughes:

"Please send large check book—A. B. C. and also several small check books for the Governor, John G. and myself.

"Thanking you very kindly, I am, as ever,

"Your friend,

"Jim."

"February 15, 1915.

"Mr. Hughes:

"Please send me Austin exchange in favor of A. S. Walker for \$18.65 and charge to the Bastrop Lignite Coal Company account for stamps on the stock which was issued to me.

"Then send me Austin exchange to same party for \$9.95 and charge to Bell-Bosque Stock Farm for revenue stamps.

"I, of course, could get the stamps here and give checks, but I would have to write you a letter about it anyway, so I suppose this is the best way to handle the matter.

"Thanking you in advance, and with best wishes to all the bunch, I beg to remain,

"Your friend.

"J. H. Davis, Jr.

"Mr. Hughes, since writing you the Bell-Bosque matter has been fixed so I return the draft of \$9.95.

"Thank you.

"Jim."

"February 17, 1915.

"Temple State Bank,

"Temple, Texas.

"Gentlemen:

"On behalf of the Governor, I herewith enclose you draft on the First National Bank of Fort Worth, by the First National Bank of Amarillo for \$10,000.00, which amount please place to the credit of Jas. E. Ferguson, Governor, sending me duplicate deposit slip.

"With best wishes, I remain,

"Yours very truly,

"J. H. Davis, Jr.,

"For the Governor."

"February 25, 1915.

"My Dear Mr. Hughes:

"I am in receipt of your favor, advising me of the income tax proposition. I just mailed that in the day before yesterday. However, I thank you for calling this matter to my attention.

"I desire to congratulate you all on the splendid little folder which you are sending out. I note the \$511,000.00 deposits with much pleasure. I believe this is the top notch, is it not?

"Tell Mr. Blum that if he will be so kind as to mail me a statement of my account I shall not bother him about it again soon. The 1st is getting close, I would like to know where I stand.

"With kindest regards to all, I remain,

"Your friend,

"Jim."

"March 15, 1915.

"Mr. C. A. Hughes,

"Temple, Texas.

"Dear Mr. Hughes:

"I am in receipt of your letter of the 12th instant.

"Heretofore, Mr. Cole, as I remember it, has been paying the city taxes in Belton, but I believe the understanding is now that each are to pay one-half of all the taxes for 1914. Mr. Cole bought these lots in the final settlement with Mr. Ferguson. I suggest that you pay the taxes and send the receipt here. All the taxes are to be divided equally for the year 1914. At least that is my understanding of it. After you have sent the receipt here I will take the matter up with Mr. Ferguson. They still own some

cotton, I believe, and the settlement for the taxes can come out of that.

"With best regards to all, I am,

"Your friend,

"J. H. Davis, Jr.

"P. S.

"Don't say anything to Cole about the cotton or the settlement.

"Jim."

"March 23, 1915.

"Mr. C. A. Hughes,

"Temple, Texas.

"Dear Mr. Hughes:

"In looking over the tax receipt of Governor Ferguson, State and County, it appears that they have collected taxes on 210 acres of land, which he sold to F. M. and J. S. Greeson on January 1, 1914. I remember distinctly of deducting this amount of acreage from the rendition to Mr. H. C. Black in January of the year 1914.

"I wish you would take this matter up with Mr. Greeson and see if he has also paid the taxes for 1914, and if he has not, he will owe the Governor that amount, which you can ascertain from Mr. Jake Nelson. If he has paid the taxes, then Governor Ferguson will be entitled to a refund from the tax collector for the amount of taxes on 210 acres of land. Mr. Black also understands the proposition.

"Thanking you for your attention to this matter, I am,

"Your friend,

"J. H. Davis, Jr."

"March 31, 1915.

"Mr. C. A. Hughes,

"Temple, Texas.

"My Dear Mr. Hughes:

"I am in receipt of yours of the 30th and can readily understand your loss to know how a note for \$627.35 would renew notes to the amount of \$1,014.25, which included the interest at the time you sent me the statement. However, I think the attached copy of letter from Governor Ferguson to Dr. Crosthwait will aid you. Up to this writing Dr. Crosthwait as not indicated which plan he wished to adopt, as set forth in the postscript to the Governor's letter, but I suppose as he sent the note for \$627.35 to you that he intends to take the 2½ shares of stock and the credit of \$386.90, which you understand, of course, is to be charged to Governor Ferguson's account; as well as the stock to be re-issued.

"Trusting this will give you the

necessary information, and with best wishes, I remain,

"Your friend,

"J. H. Davis, Jr."

"April 6, 1915.

"Mr. C. A. Hughes,

"Temple, Texas.

"Dear Mr. Hughes:

"I am in receipt of your letter of the 5th instant, and in accordance with same I herewith return you the note for \$1,050.00 duly signed; it being understood that I do so under the terms of your letter.

"Trusting this is satisfactory and with best wishes, I am,

"Yours truly,

"J. H. Davis, Jr."

"May 12, 1915.

"Temple State Bank,

"Temple, Texas.

"Gentlemen: I herewith enclose you two checks for \$193.50 and \$11.70, respectively, signed by Miriam A. Ferguson and Susan P. McElhannon, Admx., and F. C. Weinert, Secretary of State (note the age), which amount you will please place to the credit of Jas E. Ferguson, Governor, Personal.

"Best regards to all,

"Yours truly,

"J. H. Davis, Jr."

"July 12, 1915.

"Temple State Bank,

"Temple, Texas.

"Gentlemen: Herewith I hand you check for \$37.50, drawn by Square Drug Store, which amount you will please place to the credit of James E. Ferguson, Personal.

"With best regards, I am,

"Yours truly,

"J. H. Davis, Jr."

July 31, 1915.

"Attention, Mr. Hughes:

"Temple State Bank,

"Temple, Texas.

"Gentlemen: In going through the Governor's notes, I find the enclosed note signed by J. R. Jones, dated January 6th, 1914, and due January 1, 1915, for \$300, bearing interest from date at the rate of ten per cent per annum.

"This note is forwarded to you for collection, and you will please notify Mr. Jones at Heidenheimer, Texas. Should he deny that he owes the note, be careful to note ex-

actly what defense he advances for non-payment, and advise.

"Yours truly,

"J. H. Davis, Jr.

"Registered mail."

"August 30, 1915."

"Mr. C. A. Hughes, Cashier,
"Temple, Texas.

"Dear Mr. Hughes: Kindly advise what has been done towards the collection of the J. H. Jones note to Cole & Ferguson for \$300.

"With regards to all,

"Your friend,

"J. H. Davis, Jr."

"August 31, 1915.

"Temple State Bank,
"Temple, Texas.

"Gentlemen: Herewith I hand you Treasury Warrant No. 32601 for \$333.37, which you will please place to the credit of Jas. E. Ferguson, *Personal*.

"Best regards to all the 'boys,' I am,

"Yours truly,

"J. H. Davis, Jr."

"October 2nd, 1915.

"Temple State Bank,
"Temple Texas.

"Gentlemen: Herewith I hand you note for \$1,000 (One Thousand Dollars), signed by J. S. Bonner, to which is attached certificate No. 1 for 100 shares of the Harpoon Publishing Company stock of par value of \$100. The Governor asks that you place this amount to his credit.

"Yours truly,

"J. H. Davis, Jr."

"October 26, 1915.

"Mr. C. A. Hughes,
"Temple, Texas.

"Dear Mr. Hughes: I herewith enclose you a notice to Geo. W. Cole, Jr., of interest due the Middlesex Banking Company to the amount of \$720 with \$1.80 added as exchange. The Governor will thank you to remit this concern New York exchange for \$720, thereby saving the exchange.

"With best wishes to all the bunch, I am,

"Your friend,

"J. H. Davis, Jr."

"October 28, 1915.

"Mr. C. A. Hughes,
"Temple, Texas.

"Dear Mr. Hughes: Please ad-

vise me what the credit of \$10,000 on October 18th, shown on the Bell-Bosque statement is, and also please tell me whether the Bell-Bosque owes the bank a note for \$10,000. If so, when was the note dated, and when due? In other words, if the credit shown on October 18th is a note, is it the only one the bank holds against the Bell-Bosque Stock Farm, and by whose authority was it made?

"Thanking you for your kind attention, I am,

"Your friend,

"J. H. Davis, Jr.

"November 2, 1915.

"Temple State Bank,
"Temple, Texas.

"Gentlemen: At the direction of the Governor I herewith enclose for his personal credit Treasury Warrants Nos. 6115 and 6855 for \$42.30 and \$333.33, respectively, aggregating \$375.63.

"With best regards, I am,

"Yours truly,

"J. H. Davis, Jr.

"December 20, 1915.

"Mr. C. A. Hughes,
"Temple, Texas.

"My dear Mr. Hughes: Herewith I hand you interest receipts, or rather notices from P. T. Morey, which the Governor asks that you pay and charge to his account.

"Your friend,

"J. H. Davis, Jr.

"December 31, 1915.

"Temple State Bank,
"Temple, Texas.

"Gentlemen: Enclosed herewith I hand you for collection note of H. C. Poe for \$2,300.00 due January 11, with eight per cent interest, to which is attached twenty-five shares of the capital stock of Temple State Bank.

"Sincerely yours,

"J. H. Davis, Jr.

"Registered mail."

"February 9, 1915.

"Temple State Bank,
"Temple, Texas.

"Gentlemen:

"I herewith enclose you check on Farmers State Bank, your city, for \$80.33, signed by H. P. Robertson, and will ask that you pass same to the credit of Jas. E. Ferguson.

"Yours truly,

"J. H. Davis, Jr."

"February 27, 1915.

"Temple State Bank,

"Temple, Texas.

"Gentlemen:

"Enclosed please find check of Theodore M. Herring for 94.50, which please pass to the credit of *Jas. E. Ferguson, Personal.*

"With best wishes, I am,

"Yours truly,

"J. H. Davis, Jr."

"February 27, 1915.

"Temple State Bank,

"Temple Texas.

"Gentlemen:

"I herewith enclose you check signed by F. M. Duncan in favor of Jas. E. Ferguson, together with warrant for \$333.33 in his favor, for credit of *Jas. E. Ferguson, personal.*

"Will ask that you mail the treasury warrant back to the American National, this city, for your credit.

"With best wishes, beg to remain,

"Sincerely yours,

"J. H. Davis, Jr."

"April 13, 1915.

"Mr. C. A. Hughes,

"Temple, Texas.

"Dear Mr. Hughes:

"I enclose herewith a transfer from American National Insurance Company to Jas. E. Ferguson, which I will thank you to send for record. I do not know the amount of revenue stamps it will require, and, hence, am sending to you. You may cancel them in the name of Jas. E. Ferguson, and charge to his account. When you receive the transfer back, please forward same to me.

"By the way. It has occurred to me that it would be a good idea for the Middle Texas League to send annual passes, to the Governor and his force, which is composed of Messrs. Jno. L. Wroe, J. H. French and the Right Honorable J. H. Davis, Jr. I mention this confidentially, and if you could see your way clear to mention the fact to the President of the league, and incidentally mention that the President of the Texas league has seen fit to compliment two members of the office with passes (although Austin is not in the Texas League). This had merely entered my mind, and I would not want you to use my name in the matter, as it would spoil the effect. I know, however, that all parties concerned would highly appreciate this action.

"With best wishes to all the 'boys' I am,

"Your friend,

"J. H. Davis, Jr."

"January 17, 1916.

"Temple State Bank,

"Temple, Texas.

"Gentlemen:

"Referring to your statement rendered of Governor Ferguson's personal account, January 15, 1916, I beg to call your attention to the following items:

"1. You will please note the enclosed charge against W. R. Wallace for \$760.00, being for interest due the John Hancock Life Insurance Company. As explained in the Governor's letter to Mr. Poe, this should have been paid out of the proceeds of the \$19,500.00 note executed by W. R. Wallace; or if it is charged to the Governor's account, then he should have received credit for it out of said note.

"2. Referring to the enclosed charge ticket for \$153.50 to which are attached two interest receipts from P. T. Morey, being one for \$24.75 and one for \$128.00, I beg to advise that the one for \$24.75 is a correct charge, being interest on \$1,400.00 note assumed by the Governor in the R. T. Blair trade; but the \$128.00, being interest on eight notes, aggregating \$1,600.00 is not chargeable to the Governor. In the trade with Blair he only assumed the \$1,400.00 note which was represented to be the only indebtedness against the 157 acres purchased from Blair. Evidently the \$128.00 is interest due by Blair on a loan secured by other land than that sold to the Governor. Please take the matter up with Mr. Blair and collect this amount and credit the Governor's account, returning the receipt for \$24.75. You might see Judge Spann about this item, because the only note assumed by the Governor in the Blair transaction was for \$1,400.00.

"3. I note that you have charged the Governor's account with a note for \$7443.75, given by him to R. T. Blair and due January 1, 1916. This note, together with the cash payment of \$1000, September 10, 1915, and the assumption of the \$1400 note above mentioned, aggregating \$9843.75, represents the total consideration paid by the Governor to Blair for his land. I find that on January 8, 1916, you have charged the Governor's account with a check

by R. T. Blair for \$4894.51 and another by him on the same date for \$1549.24, and on January 15, you charge his account with draft by R. T. Blair for \$1000; the three checks aggregating \$7443.75, which by the way is the exact amount of the note sold by Blair to the Temple State Bank. Kindly credit this amount to the Governor's account.

"4. It appears that you have not yet given the Governor credit for the \$1000 note of J. S. Bonner, which he sent you some months ago.

"5. I herewith enclose you deed of trust from Jas. E. Ferguson to J. T. Blair, and transfer of note from J. T. Blair to Temple State Bank. Kindly execute a release to the \$7443.75 note, and forward the instruments for record, returning them here when recorded.

From the above you will note that the Governor's personal account is due credits, as I figure it, to the amount of \$9331.75. Be sure to give the Blair interest matter your early attention.

"Yours very truly,

"J. H. Davis, Jr.

"Registered."

"February 7, 1916.

"Temple State Bank, Temple, Texas.

"Gentlemen: Enclosed please find three checks, aggregating \$14.50 which please place to the credit of Bell-Bosque Stock Farm.

In this connection, please render a statement of this account before charging checks issued by me after February 1, 1916. In other words, I want the checks signed by Mr. Miller all in and the statement rendered so that I can start my books right.

"Thanking you for this courtesy, I am, yours truly,

"J. H. Davis, Jr."

"February 12, 1916.

"Temple State Bank, Temple, Texas.

"Gentlemen: Enclosed please find check of Southern Union Life Insurance Co. for \$316.59, which please place to the Governor's personal account.

"Yours truly,

"J. H. Davis, Jr."

"February 17, 1916.

"Temple State Bank,

"Temple, Texas.

"Gentlemen: Enclosed herewith I hand you check by the Rhome Farmer Commission Company for

\$964.17, which amount please place to the credit of the Bell-Bosque Stock Farm.

"Yours truly,

"J. H. Davis, Jr.

"Austin, Texas, March 3, 1916.

"Temple State Bank,

"Temple, Texas.

"Gentlemen: Enclosed please find draft by Rhome-Farmer Commission Company for \$390, which amount kindly place to the credit of Bell-Bosque Stock Farm.

"Yours truly,

"J. H. Davis, Jr.

"March 13, 1916.

"Temple State Bank,

"Temple, Texas.

"Gentlemen: Enclosed herewith I hand you two checks on First National Bank by John Finnegan for \$8.24 and \$5.32, aggregating \$13.56, which amount please place to the credit of Bell-Bosque Stock Farm.

"I also enclose you Governor Ferguson's check for \$1,026.65, which amount you will please apply to the payment of the John S. Bonner note for \$1,000. Please forward the canceled note with attached collateral by registered mail to the Governor.

"Your usual prompt attention will be appreciated.

"Yours truly,

"J. H. Davis, Jr.

"March 15, 1916.

"Temple State Bank,

"Temple, Texas.

"Gentlemen: I am today wiring you to pay Joe Lee Ferguson draft on the Governor, which Mr. Carlisle of the City National Bank advises me is \$299.05 and protest. Hereafter when any drafts come to Temple on the Governor protest, before letting them go to protest, if you will kindly let him or me know, I will try and advise you disposition.

"Yours truly,

"J. H. Davis, Jr.

"Telegram.

"14GVX16BLUE.

"KX Austin, Texas, 3:32 P. M. Mar. 20, 1916.

"Templeman State Bank,

"Temple, Texas.

On presentation pay Joe Lee Ferguson draft four hundred fifty two thirty-six, forwarding papers here.

"J. H. Davis, Jr.

"March 20, 1916.

"Temple State Bank,
"Temple, Texas.

"Gentlemen: Enclosed please find two checks for \$4.79 and \$302.19, respectively, aggregating \$306.98, which amount please place to the credit of Bell-Bosque Stock Farm.

"With best wishes and congratulations upon your excellent statement, I am,

"Yours very truly,
"J. H. Davis, Jr.

"March 31, 1916.

"Temple State Bank,
"Temple, Texas.

"Gentlemen: Enclosed find draft of Rhome-Farmer Commission Company for \$3,954.53 for credit of the Bell-Bosque Stock Farm.

"Yours truly,
"Jas. E. Ferguson.

"April 14, 1916.

"Mr. C. A. Hughes,
"Temple, Texas.

"Dear Mr. Benedict: I would appreciate if you will look in the "F" box and send me the unrecorded deed from H. P. Robertson to the Governor.

"Thanking you for your usual prompt attention, I beg to remain,

"Sincerely your friend,
"J. H. Davis, Jr."

"April 26, 1916.

"Temple State Bank,
"Temple, Texas.

"Gentlemen: Enclosed please find check for \$3.23, which amount please place to the credit of Bell-Bosque Stock Farm.

"Yours truly,
"J. H. Davis, Jr."

"April 27, 1916.

"Temple State Bank,
"Temple, Texas.

"Gentlemen: Enclosed please find draft of Rhome-Farmer Commission Company for \$1363.21, which amount please place to the credit of Bell-Bosque Stock Farm.

"Yours truly,
"J. H. Davis, Jr."

"May 20, 1916.

"Temple State Bank,
"Temple, Texas.

"Gentlemen: Enclosed please find two checks on First National and

draft by Fulton Bag & Cotton Mills on City National Dallas aggregating \$58.40, which amount please place to the credit of Bell-Bosque Stock Farm.

"Thus far you have overlooked to send me my canceled note, renewal of which I sent you about a month ago.

"Yours truly,
"J. H. Davis, Jr."

"May 22, 1916.

"Temple State Bank,
"Temple, Texas.

"Gentlemen: Enclosed herewith find note for \$100 representing money advanced to J. C. House, a tenant on Governor Ferguson's farm, to make crop for 1916. You will note that same has been transferred to you by the Governor, and he asks that you have Mr. House execute the note and handle the transaction. In other words he wants you to advance the money.

"Yours truly,
"J. H. Davis, Jr."

"May 31, 1916.

"Mr. C. A. Hughes, Cashier, Temple State Bank, Temple, Texas.

"Dear Mr. Hughes: In response to your request by 'phone this morning, I am herewith enclosing you six cashier's checks, numbered from 5905 to 5910 inclusive, payable to the order of H. C. Poe.

"Your friend,
"J. H. Davis, Jr."

"Registered Mail."

"June 24, 1916.

"Mr. C. A. Hughes, Cashier, Temple State Bank, Temple, Texas.

"Dear Mr. Hughes: I acknowledge receipt of yours of the 22nd with enclosures.

"As you know, the Governor will be absent from the office most all of the time now for thirty days, and what time he is here will be devoted to official duties which accumulate very fast. For that reason I dislike to take up the matter to which you refer with him, and for the further reason that I am sure the transaction has passed out of his mind, having taken place some eight years ago.

"I would suggest if it is not too much trouble that you secure the original copy of the second deed of trust securing the four notes and see what it says. It may throw some light on the matter, which the con-

densed abstract does not show. Or you might ask Spann what you should do in the premises.

"Since the deed from Boney to Buckallew recites that the Temple State Bank advanced \$5000 and that the other four notes were payable to Boney, I am inclined to think that the Texas Farm Mortgage Company were correct, but have not positive knowledge. I also think that the release which they sent you goes a little too strong, and if you execute one at all I would suggest that you simply release the lien securing the payment of the four notes in so far as the Temple State Bank is concerned.

"Understand, I am not advising you to execute a release at all, but merely offer the above as a suggestion.

"I am very sorry that I cannot give you any further information, and while I would be glad to accommodate the Texas Farm Mortgage Company, if I were you I would not worry over the matter, as it is simply one of accommodation on the part of the bank.

"The Governor is in Greenville today, and will be absent from the office for a week.

"Regards to all,

"Your friend,

"J. H. Davis, Jr.

"All papers returned."

"July 14, 1916.

"Temple State Bank, Temple, Texas.

"Gentlemen: Enclosed please find draft of G. C. & S. F. Ry. Co. for \$10.36, which amount place to credit of Bell-Bosque Stock Farm.

"Yours truly,

"J. H. Davis, Jr."

"July 18, 1916.

"Temple State Bank, Temple, Texas.

"Gentlemen: Enclosed herewith I hand you check of M. K. & T. Railroad for \$175 which amount please place to the credit of the Bell-Bosque Stock Farm.

"Yours truly,

"J. H. Davis, Jr."

"August 14, 1916.

"Mr. C. A. Hughes,

"Temple, Texas.

"Dear Mr. Hughes: I herewith enclose you my note for \$450 due one year from date. If you can handle it, send me a deposit slip for the amount. If you cannot, just return

the note with whatever comment you care to make.

"Assuring you that I shall appreciate what you do in the premises, and that I shall not be offended if you refuse the favor, I am, as ever,

"Your friend,

"J. H. Davis, Jr.

"September 1, 1916.

"Mr. C. A. Hughes,

"Cashier, Temple State Bank,
Temple, Texas.

"Dear Mr. Hughes: I am in receipt of your letter of the 29th, enclosing renewal notes for \$10,000 and \$20,000 respectively of the Bell-Bosque Stock Farm, which I herewith return duly executed, same being due December 30, 1916. At the direction of the Governor, I am also enclosing note for \$1400 to cover interest to that date.

Yours very truly,

"J. H. Davis, Jr."

"P. S. Please cancel and return the old notes. "J. H. D."

"September 5, 1916.

"Mr. C. A. Hughes,

"Temple, Texas.

"Dear Mr. Hughes: I herewith enclose you deed from H. P. Robertson to Jas. E. Ferguson, being a conveyance of one-half interest in Lot Number 2 in Block Number 5, of the original town of Temple, dated the 10th day of January, 1912.

"Please attach the necessary revenue stamps and forward to Belton for record, returning to me when recorded.

"Thanking you for your courtesy in this regard, I am,

"Sincerely yours,

"J. H. Davis, Jr.

"October 11, 1916.

"Mr. C. A. Hughes,

"Cashier, Temple State Bank,

"Temple, Texas.

"Dear Mr. Hughes: I herewith enclose you draft on American National Bank for \$1,109.03, for the credit of Bell-Bosque Stock Farm. I mailed the draft to you on the 9th, but it was crossed with the American National Bank letter, and they credited it down there in place of forwarding to you.

"In checking over the last statement of the Bell-Bosque I find that you failed to credit us with a remit-

tance of \$10.36 on July 14th, also \$175 sent July 18th. I wish you would look into that and see if the money was credited to Jas. E. Ferguson personal account. It should have gone to the Bell-Bosque, but if it went to the Governor's personal account it will be all right, but advise me so that I can make the proper entry on my books.

"With best wishes to all the force, I am, as ever,

"Your friend,
"J. H. Davis, Jr.

"November 17, 1916.

"Temple State Bank,
"Temple, Texas.

"Gentlemen: Enclosed please find note of A. J. Reynolds for \$1,000 payable to the order of John G. McKay, to which is attached 20 shares of the capital stock of the Square Drug Store, being certificates Nos. 1 to 8, respectively.

"Jake has written the Governor that he is arranging to pay this note promptly, so please present it, and credit proceeds to the Governor's personal account. The note draws interest eight per cent from date, February 8, 1915, to October 8, 1915, with ten per cent from that time until paid.

"Yours truly,
"J. H. Davis, Jr.

"December 1, 1916.

"Mr. C. A. Hughes, Cashier,
"Temple State Bank,
"Temple, Texas.

"Dear Mr. Hughes: Pursuant to your request of the 28th ultimo, addressed to the Governor, I herewith enclose you a demand note for \$5,890, signed by J. J. Spires, payable to your bank, and which appears from the charge tickets among the Governor's checks to have been charged to his account, together with interest on April 1st, 1916.

"Yours very truly,
"J. H. Davis, Jr.

"December 1, 1916.

"Temple State Bank,
"Temple, Texas.

"Gentlemen: Enclosed find check of W. E. Phillips on First State Bank of Pendleton for \$108, which amount please place to the Governor's personal credit.

"Also please forward statements of Jas. E. Ferguson, personal, and Bell-Bosque Stock Farm.

"I will appreciate if you will notify me when the Phillips check has been paid, so that I may send him his note.

"Yours very truly,
"J. H. Davis, Jr.

"December 1, 1916.

"Mr. C. A. Hughes, Cashier,
"Temple State Bank, Temple, Texas.
"Dear Mr. Hughes:

"Pursuant to your telephone call today, I am enclosing herewith note of F. M. Spann for \$1,500.00, to which is attached five notes of W. H. Lock, being four for \$400 each and one for \$475. The note of Judge Spann to the Governor bears interest from date, January 27, 1916, at the rate of ten per cent. When you have made this collection, please send deposit slip to cover.

"Thanking you for your courtesy in the matter, I am, as ever,

"Your friend,
"J. H. Davis, Jr."

"December 2, 1916.

"Temple State Bank,
"Temple, Texas.

"Gentlemen:
"Enclosed find check of Square Drug Store for \$104.16, which amount please place to the Governor's personal credit.

"Yours very truly,
"J. H. Davis, Jr."

"December 15, 1916.

"Temple State Bank,
"Temple, Texas.

"Gentlemen:
"Enclose find the following drafts for the credit of Bell-Bosque Stock Farm:

"Rhome-Farmer Live Stock Commission Co. on North Texas State Bank, Fort Worth	\$1,863.02
"Draft by Bell-Bosque Stock Farm on Live Stock Exchange National Bank of Chicago	2,500.00
	<u>\$4,363.02</u>

"Yours truly,
"J. H. Davis, Jr."

"May 8, 1917.

"Temple State Bank,
"Temple, Texas.

"Gentlemen:
"Enclosed please find check of H. Bland & Co. for \$1,450.35, which amount please place to the credit of the Bell-Bosque Stock Farm.

"I shall thank you to kindly render a statement of the Governor's personal account, at your early convenience.

"Yours truly,

"J. H. Davis, Jr."

"May 15, 1917.

"Temple State Bank, Temple, Texas.

"Gentlemen: Enclosed find check of M. P. McElhannon for \$7.50 which please place to the credit of the Governor's personal account.

"How about the statement of his account for which I asked you some days ago?

"Yours truly,

"J. H. Davis, Jr."

"June 22, 1917.

"Temple State Bank, Temple, Texas.

"Gentlemen: Enclosed find check of Bastrop Lignite Coal Company for \$800.04, which amount please place to the credit of Jas. E. Ferguson, personal.

"Yours truly,

"J. H. Davis, Jr."

"July 27, 1917.

"Temple State Bank, Temple, Texas.

"Gentlemen: Enclosed find check of Rhome Farmer Commission Company for \$10.93, which amount please place to the credit of Jas. E. Ferguson, personal.

"Yours truly,

"J. H. Davis, Jr."

Senator Page: Mr. President.

The Chair: The Senator from Bastrop.

Senator Page: I just wanted to get the date of a letter Mr. Harris introduced there which referred to the bank of which I am president, the Citizen's State Bank.

Senator McNealus: Mr. President.

The Chair: The Senator from Dallas.

Senator McNealus: I would like to ask counsel a question: I see Mr. Harris has stressed these letters which are James E. Ferguson, personal, underscored, and others underscored Jas. E. Ferguson.

Mr. Harris: No, the personal are the ones that are underscored, no other letters; the Jas. E. Ferguson, Governor, I never saw one of them underscored, that is immaterial and I don't want to offer them.

Senator McNealus: You mentioned the fact one set of letters was underscored.

Mr. Harris: Yes, the James E. Ferguson, personal.

Senator McNealus: If they are to be printed in the record I think it would be proper also for the underscore to be printed in the record. I wish the Chair would give the stenographers and those that do the printing that it be shown in the Journal, or record, or whatever you call it.

The Chair: The stenographers will underscore those words that are underscored.

Senator McNealus: Put them in italics, or italicize them, or anything to make them show up.

The Chair: The reporters will attend to that. The Chair has a question sent up by Senator Bee. Are you through with the examination of the witness?

Mr. Harris: Just a minute, I am trying to find a letter.

Q. Mr. Blum, wasn't there a letter in this file in which Mr. Davis, on March 23,—postscript in his own hand writing, asked for a statement of the Governor's account? I don't find it here. Just seven days before the Governor's letter requested it?

A. Here it is, I think the gentleman has it in his hand.

Q. No, that's not it. It is written exactly like that. I introduced one from the Governor, I have introduced one from him of September 3, but on March 23, 1916, there was a letter requesting it.

The Chair: I will read this question by Senator Bee, gentlemen, if you are through: "Mr. Blum, do you understand that the checks from the banks at Amarillo and Plainview, etc., sent to the Temple State Bank by Mr. Davis, were sent from the Canyon City fund?"

A. Read that question please sir.

The Chair: Do you understand that the checks of the banks at Amarillo and Plainview, etc., sent to the Temple State Bank by Mr. Davis were from the Canyon City funds?

A. No, sir, I did not. I do not know where they were from.

The Chair: Any further questions?

Mr. Harris: That's all, Mr. Blum.

Mr. Hanger: That's all, Mr. Blum.

Senator Page: Mr. President.

The Chair: The Senator from Bastrop.

Senator Page: I don't know

whether it is proper or not at this time, but I would like to testify as to the remittance to the Citizens State Bank at Bastrop. It is the bank of which I am president. It appears from the testimony of Mr. Davis that he sent this Cashier's check, and I want the record complete on that. If proper I want to testify now.

The Chair: Is there any objection?

Mr. Harris: You need not testify, make a statement.

Senator Page: I would like this statement to go into the record. I would state that immediately after the adjournment of the 1915 Legislature, in the spring of 1915, Governor Ferguson came to me on the floor of the Senate, I think probably right back there, and told me that he had some money, which I understood him to say, was insurance money from the Canyon City Normal, or some school that burned, and he would have to use the money—for the present he had no use for it, and if I wanted to handle it in my bank he would deposit it there. I told him we were always glad to have deposits, and he handed me a check and I carried it to Bastrop and handed it to the cashier and I told him the circumstances under which I had gotten it. What Governor Ferguson had told me, and it remained there at least until August, I think. It bore no interest to anybody. The way I looked at the matter was, the Governor and I had been friendly, and he desired this friendly relation to continue. I thought perhaps that on account of the Gibson Bill, I had made a very strenuous fight against that bill in which he was very much interested. I thought that he probably thought I felt estranged from him and we had been friends, and he handed me that check for that reason.

Mr. Harris: I will say, for the benefit of the Senator, that at the time I read that letter I didn't know he was president of the bank, or that it had reference to him at all.

Senator Page: I understand that, but since it was read I just wanted the record clear on the matter, and that is the way it was.

The Chair: Proceed, gentlemen.

General Crane: Mr. Hornaday, will you take the stand?

Thereupon

W. D. HORNADAY,

called for the proponents was sworn by the Chair as follows:

"You do solemnly swear that the evidence you shall give upon this hearing by the Senate of the impeachment charges against James E. Ferguson, Governor, shall be the truth, the whole truth, and nothing but the truth, so help you God."

Direct Examination
By General Crane.

Q. Mr. Hornaday, did you report for the San Antonio Express the speech made by the Governor in the House on the third of March, I believe it is—yes—and if so, note those paragraphs in blue pencil and state whether you correctly reported what the Governor said?

A. Yes, sir.

Q. Sir?

A. Yes, sir.

Q. That is correct? Your Honor, we offer that as part of the speech made by Governor Ferguson on the 3rd day of March, 1917, before the House of Representatives, as reported by the San Antonio Express of March 4: "Anybody who is concerned about my relations with the Temple State Bank," he continued, "will find that I have paid every dollar that I owed that bank, and today I do not owe them a nickel in the world."

Q. That's all sir.

The Chair: Any questions for the witness, Mr. Hanger?

Mr. Hanger: Yes, sir.

Cross Examination
By Mr. Hanger.

Q. Your recollection about that is based simply on the article as you see it read here?

A. Yes, sir.

Q. That's all. I would ask you if you are the same man who reported General Crane was getting very nervous?

A. No, I am not the man.

The Chair: Any further questions, gentlemen?

General Crane: We have some witnesses, Mr. President, we have been trying to get; we have process out for them and if we do succeed in getting them we will ask the Senate to allow us to introduce them, but we have not been able yet to get service on them. Most of them we

are seeking seem to be temporarily absent from the State, but we hope to get some one of them before we are through yet.

The Chair: Are you ready to proceed, Mr. Hanger, for the defendant?

Mr. Hanger: Yes, call around Mr. Hargon. he is in the Senate, call around Frank Hargon.

DEFENDANT'S TESTIMONY.

The Respondent called

F. H. HARGON

who having been duly sworn, testified as follows:

Direct Examination
By Mr. Hanger.

Q. You were sworn?

A. Yes, sir.

Q. You have to talk out loud, now, Mr. Hargon. What is your business, Mr. Hargon?

A. Cashier in the Department of State.

Q. Mr. Hanger: Can you hear back there?

A. Member: Can't hear very well.

A. Cashier, Department of State.

Q. How long have you been in the Department of State?

A. Since January, 1911, nearly seven years.

Q. Who was Secretary of State when you first went in that department?

A. C. C. McDonald.

Q. What position did you hold. have you held the same position all the time?

A. No, sir, I was certificate clerk at that time.

Q. How long have you been cashier, is what we are trying to get at?

A. Cashier since January, 1915.

Q. Mr. Hargon, there has been some testimony here about a deposit of \$5,000 in the Temple State Bank early in the year 1915. Do you know about that \$5,000 item of deposit?

A. Yes, sir.

Q. What is that, Mr. Hargon?

A. That is accumulation that has been growing ever since the department was created, the checks returned, checks that have been

made in excess remittances that were in cash.

Q. What do you mean by returned checks, returned checks payable to you or to somebody else?

A. Payable to the parties who made the excess remittance.

Q. And by their failure to cash them then this balance has grown up?

A. Yes, sir.

Q. Does it belong to the State or to the people?

General Crane: I object to that, Mr. President. Let him state how the money was acquired and the Senate will decide to whom it belongs.

The Chair: I will sustain the objection.

Q. All right. All right, sir. I think it is manifest. Now it has appeared that the balance of \$5,000.00 has been continuous in that bank since it was put in there. Is that the same \$5,000.00 that was made up as you have described?

A. Yes, sir.

Q. Previous to its removal to the Temple State Bank, where was it?

A. In the American National.

Q. How long had it been there in substantially that amount, of course, within your knowledge?

A. Well, ever since the department began doing business it has been growing all the time.

Q. Since you have known anything about the department it has been in there. Now, there is also some testimony about the balance being on hand in the Temple State Bank after settlement in July, 1917, with the Treasurer? How much was that, do you know?

A. \$15,000.00.

Q. What was that composed of?

A. That \$15,000.00 was collection of franchises from the 1st of July up to the 12th, or part of it.

Q. First of July, 1917?

A. Yes, sir.

Q. And how much of that was that?

A. How much of which, the \$10,000.00?

Q. Yes?

A. It was part of the franchises that were collected.

Q. What was the other five?

A. The other five was this surplus.

Q. Yes. This five thousand dollars you have been talking about?

A. The five thousand dollars is that surplus that has been—

Q. Now when settlement—did I interrupt you?

A. No, sir.

Q. With reference to this five thousand dollars, are the checks which go to make that up, so far as you know, still outstanding?

A. Yes, sir.

Q. Uncashed?

A. Yes, sir.

Q. When settlement was made with the State Treasurer in July, of 1917, on what basis was settlement made, up to what time?

A. The 1st day of July.

Q. So that the settlement you made with him embraced collections made up to the 1st of July?

A. Yes, sir.

Q. And that is the ten thousand dollars which went to make up the fifteen thousand dollars left in there, was represented by the amounts collected since the 1st of July?

A. Yes, sir.

General Crane: After the lecture counsel gave me, Mr. Chairman, I hesitate to suggest his questions are leading.

Mr. Hanger: I think that has all been established, I was simply making that as a preliminary explanation.

Q. Mr. Hargon, do you know what your collections were in October, 1915, for franchise taxes?

Mr. Hanger: I should state, Mr. President, in explanation, we think, because it is not apparent here, it is admissible at this time, but there was some proof here about a deficiency beginning about October, 1915; also some proof about whether it would have been affected by the deposit made monthly by the Secretary of State.

General Crane: Now, our objection to that is, Mr. President, if any evidence is to be introduced of the state of this account, of the amount of collections, the books of the Secretary of State should be introduced, or a statement from him. We, therefore, ask them to bring up their records and show these matters if they think they are of importance.

The Chair: The books are the best evidence.

Q. Have you looked at the books?

A. Yes, sir.

Q. Do you know, and can you state, the amount that was collected?

A. Yes, sir.

General Crane: I object to that, because I want the statements, and see what they are.

Mr. Hanger: All right. Go and get the statements. (To General Crane): We will wait until he gets back.

The Chair: The Court will be at ease while the witness goes for the books.

Senator McNealus: Mr. President, after consulting with counsel I think it would be advisable for the Court to rise until 2 o'clock.

The Chair: I will call the Court to order, then. The Court will come to order.

Senator McNealus: Mr. President.

The Chair: The Senator from Dallas.

Senator McNealus: I move the Court rise and recess until 2 o'clock this afternoon.

The Chair: The Senator from Dallas moves that the Court rise until 2 o'clock this afternoon. Those favoring the motion, let it be known by saying aye, and those opposed, nay. The motion prevails.

(The Court then, at 11:45 o'clock a. m., recessed until 2:30 o'clock p. m.)

In the Senate.

President Pro Tem. Dean in the chair at 11:45 o'clock a. m.

Senate Bill No. 9.

(By unanimous consent.)

The Chair laid before the Senate on second reading:

S. B. No. 9, A bill to be entitled "An Act creating an express lien in favor of the State of Texas on all public free school land, University land, and the several asylums land for the use and benefit of the public free school fund, the University fund, and the several asylums fund for the purpose of securing the payment to said funds of all unpaid purchase money and interest thereon due upon all of said lands which have heretofore been sold and which may hereafter be sold so long as any portion of the principal or any portion of the interest thereon remains unpaid; also authorizing the Commissioner of the General Land Office on behalf of the State of Texas to transfer the indebtedness due to said funds and the lien held upon said land for the benefit of said funds to secure the pay-

ment of the principal and interest of such person, firm or corporation as may make payment in full to the State for all sums due upon said land, and providing that the person, firm or corporation that may pay said indebtedness shall be subrogated to all the rights, liens and remedies held and enjoyed by the State, and declaring an emergency."

The bill having been read second time on September 11, Senator Bailey moved the adoption of the committee report that the bill be printed in the Journal only.

The motion prevailed.

The bill was read second time and passed to engrossment.

On motion of Senator Bailey, the constitutional rule requiring bills to be read on three several days was suspended and Senate Bill No. 9 put on its third reading and final passage by the following vote:

Yeas—26.

Alderdice.	Henderson.
Bailey.	Hopkins.
Bee.	Hudspeth.
Buchanan of Bell.	Johnson of Hall.
Buchanan of Scurry.	Johnston of Harris.
Clark.	Lattimore.
Collins.	McNealus.
Dayton.	Parr.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Gibson.	Sulter.
Hall.	Woodward.

Absent.

Caldwell.	Page.
Harley.	Westbrook.
McCollum.	

The bill was laid before the Senate, read third time and, on motion of Senator Bailey, was passed by the following vote:

Yeas—25.

Alderdice.	Henderson.
Bailey.	Hopkins.
Bee.	Hudspeth.
Buchanan of Bell.	Johnson of Hall.
Buchanan of Scurry.	Johnston of Harris.
Clark.	Lattimore.
Collins.	McNealus.
Dayton.	Parr.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.

Sulter.
Westbrook.

Woodward.

Absent.

Caldwell.
Gibson.
Hall.

Harley.
McCollum.
Page.

Senator Bailey moved to reconsider the vote by which the bill was passed and table the motion to reconsider. The motion to table prevailed.

(Senator Henderson in the chair.)

Message from the House.

Hall of the House of Representatives, Thirty-fifth Legislature, Third Called Session.

Austin, Texas, Sept. 13, 1917.

Hon. W. L. Dean, President Pro Tem. of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 11, A bill to be entitled "An Act to amend Section 37, Chapter 17, of the General and Special Laws of the State of Texas, passed at the Thirty-third Legislature at its First Called Session, being 'An Act creating the San Patricio County road system, so as to require the tax assessor to make up the tax rolls of said county by defined road districts, instead of by justice precincts, by adding a new section to be designated as Section 37a; fixing a compensation of the tax assessor, and declaring an emergency.'"

S. B. No. 8, A bill to be entitled "An Act to provide for the creation of home guards under the direction of the sheriff of the county; providing for the regulation of such home guard and granting the right to counties, cities and towns to appropriate money to provide arms and ammunition for such home guard, and declaring an emergency," with amendment.

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

Bill Read and Referred.

The Chair, Senator Henderson, had referred after its caption had been read, the following House bill:

H. B. No. 11, referred to the Committee on Roads, Bridges and Ferries.

House Bill No. 11 Re-referred.

On motion of Senator Parr House Bill No. 11 was withdrawn from committee and referred to the Committee on Counties and County Boundaries.

Senate Bill No. 8—House Amendments Not Concurred In.

Senator Johnston of Harris moved that the Senate do not concur in the House amendments to Senate Bill No. 8, and request a free conference on same.

The motion prevailed.

Recess.

At 12:04 o'clock p. m., on motion of Senator Clark, the Senate recessed until 2 o'clock today.

After Recess.

(Afternoon Session.)

President Pro Tem. Dean in the Chair.

In Court.

Thursday, September 13, 1917.

Afternoon Session.

(Pursuant to the recess adjournment, the Senate sitting as a Court of Impeachment reconvened at 2:00 o'clock p. m.)

The Chair: The Court will come to order. Are you ready to proceed, or would you rather wait until we have more Senators?

Mr. Hanger: Well, we probably ought to wait until some more come in. I don't think there are more than six or eight here.

Senator Gibson: I believe there is a quorum here, Mr. Hanger, but they are scattered.

Mr. Hanger: Let's see—one, two, three, four, five, six, seven, eight, nine, ten eleven—there are eleven here—oh yes, the Presiding Officer makes twelve.

Senator Gibson: I move that we stand at ease subject to the call of the Presiding Officer.

The Chair: The Senator from Fannin moves that the Court stand at ease subject to the call of the Presiding Officer. Let's try to get them in as soon as we can. There are two more coming now. Those favoring the motion let it be known by saying "Aye," those opposed "No"—The motion prevails and the Court will stand at ease subject to the call of the Presiding Officer.

Senator Gibson: I would suggest that the pages go and look for some of the Senators.

The Chair: We would like for the pages to go out and tell any of the Senators you find that we are waiting on them.

(Thereupon the Court stood at ease from 2:05 o'clock p. m. until 2:15 o'clock p. m., at which time the Court reconvened.)

The Chair: The Court will come to order. There seems to be a quorum here now. Everybody in the Chamber be quiet and let's have good order this afternoon.

Thereupon the Respondent recalled

F. H. HARGON,

who had been previously sworn and who had previously testified, and who now testified as follows:

Direct Examination Resumed By Mr. Hanger.

Q. Mr. Hargon, have you the book there that was called for?

A. Yes, sir.

Q. Turn to the month of October, 1915, and read the figures applicable to the question asked you this morning.

General Crane: What was the question?

Mr. Hanger: The amount of franchise taxes.

A. The amount due the Treasurer for the month of October \$11,309.74.

Q. And November—that's 1915?

A. 1915, November was \$8921.85.

Q. Was that collected in November?

A. It was collected in November, yes, sir, during the month of November.

Q. The other means collected during October?

A. Yes, sir.

Q. Read it again—Judge Bryan wants to know the amount, that last one?

A. \$8921.85.

Q. December?

A. \$13,109.50.

Q. You say you are cashier in the Secretary of State's Department?

A. Yes, sir.

Q. Who makes the settlements with the Treasurer?

A. I do.

Q. When are those settlements made?

A. These settlements are made at the end of each month—as soon as I can.

Q. With reference to franchise taxes, when are they made?

A. These are settled, franchises and everything—

Q. I understand, but at this time when are franchise tax settlements made?

A. Quarterly.

Q. Are there any other kinds of settlements?

A. All collections with the exception of franchise taxes are paid into the Treasury monthly.

Q. When did that—when did it become the rule in the Secretary of State's Department and office to make quarterly settlements?

A. In May, 1916.

Q. That was the first quarterly settlement that was made—do you mean that?

A. Yes, sir, May and June, 1916, the end of the quarter.

The Chair: I didn't catch that date. Please repeat that.

Q. Go ahead and repeat it.

A. The first quarterly settlement was made for the months of May and June, 1916.

Q. That is to say, it was made about the first of July, then?

A. Yes, sir; it generally takes to about the 10th or 12th before I can make my report.

Q. It was made about the 10th or 12th of July, embracing the months of May and June?

A. Yes, sir.

Q. Mr. Hargon, you say before that they had been made monthly?

A. Yes, sir.

Q. Was there or not any provision of law which caused that change to be made?

General Crane: We object to that, sir. The law will speak for itself.

Q. How did you come to make

the change, with reference to the law of the subject?

A. Because it was decided that the—

General Crane: (Interrupting) I object to his stating what the law is, Mr. President.

Mr. Hanger: I want to show the reason that prompted him. They have shown already that the change was made and when it was made. We simply want to show why the change was made from monthly settlements.

The Chair: The law itself would be the best evidence.

Mr. Hanger: Well, I want to know what prompted him, Your Honor.

The Chair: Well, ask it that way.

Mr. Hanger: I will put it that way.

Q. What prompted you to make the change?

A. Because it was decided that the law making settlements of franchise taxes, should be made quarterly.

Q. Mr. Hargon, have you a statement showing the amounts deposited in the Temple State Bank or the balances in the Temple State Bank and the other bank, wherever you put the Secretary of State's money?

A. Yes, sir.

Q. What other bank did you keep the Secretary of State's money in?

A. The American National Bank of Austin.

Q. Now, beginning with 1915, and down to this time, where has the money coming into the Secretary of State's office been deposited?

A. Part of it has been deposited in the American National Bank of Austin and part of it in the Temple State Bank at Temple.

Q. Have you a statement—prepared a statement or got a statement showing the balance in each of those institutions?

A. Yes, sir.

Q. Is this statement correct?

A. Yes, sir.

Mr. Hanger: Want to see it, General?

General Crane: Yes, sir.

(Mr. Hanger hands statement to General Crane).

Q. Is it taken from your books?

A. Yes, sir.

Q. Now, is that made as a monthly statement?

A. It is the average daily balances monthly, each month.

Q. What time in the month does that—is that made to apply to?

A. Well, you take the daily balances—

Q. Oh, yes, by months?

A. —from the first of the month to the last of the month, then you make the average daily balance for that month.

Q. So it covers the whole month?

A. Yes, sir.

Q. Each month?

A. Yes, sir.

Q. What month does it begin with?

A. June, 1915.

Q. Next one?

A. August, 1917.

Q. Now, why June, 1915.

A. That was the first business we ever did with the Temple State bank.

Q. Yes, and that was the deposit of this \$5000 you spoke about this morning?

A. Yes, sir.

Q. It appears here \$5000. Is that the five thousand?

A. Yes, sir.

Q. Previous to June, 1915, where had the money of the Secretary of State's Department been kept?

A. In the American National Bank of Austin.

Q. All of it?

A. All of it, yes, sir.

Q. How long had that continued, to your knowledge?

A. Why, ever since January, 1911.

Q. You were requested to prepare this statement by us?

A. Yes, sir.

Mr. Hanger: We desire to introduce this statement.

General Crane: I would like to cross examine him before you offer.

Mr. Hanger. All right. Go ahead now.

Cross Examination By General Crane.

Q. How do you arrive at the monthly balances?

A. I get my daily balances all the way down the line each month—

Q. Yes, sir.

A. —and then make an average of the daily balances.

Q. How do you average—divide by the number of days, whatever balance you have?

A. Yes, sir.

Q. By the number of days involved?

A. Yes, sir.

Q. Then, if this is the monthly balance, I take it you get all the balances in the year and divide by the number of months involved?

A. Yes, sir.

Q. That's the 'average monthly balance?

A. Average monthly balance, yes, sir.

Q. Not the average daily balance, but average monthly balance?

A. Average monthly balance.

General Crane: All right.

Redirect Examination By Mr. Hanger.

Q. Now, for the month, it is arrived at by getting the daily balances and dividing the balances—

A. The balances for that month. We have none for Sundays or holidays.

Q. I was just going to ask, you don't include in that Sundays and holidays?

A. No, sir.

Q. "Average daily balances of deposits made by Secretary of State from June, 1915, to August, 1917"—that's the way it is headed?

A. Yes, sir.

Mr. Hanger (reads): June, 1915, American National Bank, \$88,582.87; Temple State Bank, \$5,000. With the American National Bank for July, 1915, \$62,056.32; with the Temple State Bank, \$5,000. With the American National Bank for August, 1915, \$24,544.50; with the Temple State Bank, \$5,000. For September, 1915, with the American National Bank, \$17,443.06; with the Temple State Bank, \$5,000. For the month of October, 1915, with the American National Bank, \$18,661.62; with the Temple State Bank, \$5,000. For November, 1915, with the American National Bank, \$18,469.97; with the Temple State Bank, \$5,000. For the month of December, 1915, with the American National Bank, \$20,678.19; with the Temple State Bank, \$5,000. For the month of January, 1916, with the American National Bank, \$40,364.61; with the Temple State Bank, \$5,000. For the month of February, 1916, with the American National Bank, \$100,332.95; with the Temple State Bank, \$5,000. For the month of March, 1916, with the

American National Bank, 53,625.81; with the Temple State Bank, \$5,000. For the month of April, 1916, with the American National Bank, \$91,901.66; with the Temple State bank, \$22,887.40. For the month of May, 1916, with the American National Bank, \$129,195.45; with the Temple State Bank, \$50,974.72. For the month of June, 1916, with the American National, \$55,927.20; with the Temple State Bank, \$33,123.62. For the month of July, 1916, with the American National Bank, \$47,031.83; with the Temple State Bank, \$15,549.18. For the month of August, 1916, with the American National, \$35,645.65; with the Temple State Bank, \$7,567.70. For the month of September, 1916, with the American National, \$33,945.75; with the Temple State Bank, \$5,665.70. For the month of October, 1916, with the American National, \$27,487.40; with the Temple State Bank, \$5,000. November, 1916, with the American National, \$28,308.69; Temple State Bank, \$5,000. December, 1916, with the American National, \$22,858.72; with the Temple State Bank, \$5,000. For the month of January, 1917, American National, \$48,321; with the Temple State Bank, \$5,000. For the month of February, 1917, with the American National Bank, \$77,847.06; with the Temple State Bank, \$57,045.45. For the month of March, 1917, with the American National, \$51,009.80; with the Temple State Bank, \$115,000. For the month of April, 1917, with the American National, \$114,991.37; with the Temple State Bank, \$45,361.50. For the month of May, 1917, with the American National, \$318,976.53; with the Temple State Bank, \$58,523.40. For the month of June, 1917, with the American National, \$79,104.51; with the Temple State Bank, \$354,841.70. For the month of July, 1917, with the American National, \$73,551.01; with the Temple State Bank, \$133,749.34. For August, 1917, with the American National, \$45,477.80; with the Temple State Bank, \$15,000.

Q. Mr. Hargon, when you made the settlement in the month of July, this year, 1917, with whom did you settle?

A. Mr. Edwards, the State Treasurer.

Q. The State Treasurer. Was the

money before the time of that settlement in the Temple State Bank promptly paid at the time of the settlement into the Treasury of the State?

A. Yes, sir.

Q. Now, there has been some testimony here of \$250,000 in the Temple State Bank. How long did that remain in the Temple State bank?

A. \$250,000?

Q. Yes, sir.

A. Forty-five days.

Q. Was there some other item there that remained about the same length of time about that time? If so, what was the amount?

A. \$50,000 was deposited on the 24th of May. It was in there forty-nine days.

Q. That is to say, from the 24th to the day of settlement?

A. Yes, sir.

Q. When was the other deposited?

A. Well, there came little, small deposits along each day.

Mr. Hanger: I see. That's all.

Recross Examination

By General Crane.

Q. Does your book show the amounts and dates of your daily collections, the one you have there?

A. How is that?

Q. Does that book show the amount of your daily collections?

A. This one does not, no, sir.

Q. It does not.

A. This is what we settle with the State.

Mr. Hanger: Talk a little louder, Mr. Hargon.

Q. That's the book you use in settling with the State?

A. All matters that are cleared, yes, sir.

Q. Does that book show the dates of your drafts on the banks for the amounts of your settlements, or are you stating that from memory?

A. This record here will show that.

Q. Does it show when you drew the money from the banks?

A. To deposit in the Temple State Bank?

Q. No, when you drew the money from the banks to deposit in the State Treasury.

A. Yes, sir, my cancelled checks I have, and also receipts from the Comptroller's Department.

Q. Well, now, it is true that you drew no draft or check on the Temple State Bank for nearly eleven months?

A. How is that?

Q. You didn't draw a check or draft for five thousand dollars—you left that much in the Temple State Bank for several months?

A. Yes, sir.

Q. Didn't draw on it at all?

A. No, sir.

Q. You not only did not draw on it monthly, but did not draw it out quarterly?

A. No, sir.

Q. Why was that?

A. Well, it's a fund there that doesn't belong to the State.

Q. Oh, it doesn't?

A. No, sir.

Q. To whom does it belong—does it belong to the Temple State Bank?

A. No, sir.

Q. Well, wasn't it collected—

Mr. Hanger: You asked him to whom it belonged. I want him to answer that.

General Crane: Well, I will withdraw it. He had no right to answer the other. The Court excluded it once as a legal question.

Q. You answered it didn't belong to the State. Wasn't that money collected by the State officers and paid to the Secretary of State as such?

A. They were moneys—

Q. Just answer the question, please.

A. Well, I want to get—

Q. Wasn't that money collected by the Secretary of State's office as Secretary of State and for the State?

A. Yes, sir.

Q. You stated that it consisted of collecting two large amounts that had accumulated, didn't you?

A. Yes, sir.

Q. And that you had sent out checks against it?

A. Not I, but those ahead of me.

Q. All right. Upon what banks were those checks drawn?

A. The American National Bank of Austin.

Q. If those checks had been presented for that particular fund it wouldn't have been there, would it?

A. No, sir.

Q. It was in the Temple State Bank. Now, do you take the position that that money did not belong to the State and that you could do with it—

you and the Secretary of State—whatsoever you pleased?

A. Why, it is money there that could be checked on whenever the checks appeared.

Q. I am asking you to answer the question. You say it does not belong to the State?

A. It does not.

Q. It does not?

A. No, sir.

Q. Do you take the position that it belongs to the Secretary of State and that he can do with it as he wishes?

A. It does not belong to the Secretary of State.

Q. Why was it taken out of the Secretary of State's office or out of the State Treasury and sent to Temple?

A. It was not taken from the State Treasury.

Q. Where was it taken from?

A. From the American National Bank.

Q. Exactly. It was deposited in the American National Bank, checks issued against it, and yet you took that money and put it in the Temple State Bank, isn't that so?

A. Yes, sir, that's a fact.

Q. Who signed the checks against it?

A. Why, Mr. McKay signed the checks.

Q. I don't mean that. Who signed the checks that were given to the supposed owners of the fund?

A. The Secretary of State.

Q. At different periods?

A. Yes, sir.

Q. And those checks are now outstanding for that money on the American National Bank?

A. I presume they are.

Q. And the money has been withdrawn by you and deposited by you in the Temple State Bank?

A. Yes, sir.

Q. Or by your superior. Do you know personally how that fund of five thousand dollars was accumulated?

A. Only from a report of an auditor away back in 1911.

Q. A report of an auditor?

A. Yes, sir.

Q. You have been sitting there telling the Senate what you swear. Tell what you know?

A. Well, I make my balances, and that balance has been there all the time.

Q. There was a balance of \$5,000 you found there with an auditor?

A. Yes, sir.

Q. Now, do you know that that was the particular fund checked out of the American National Bank and carried up there—wasn't it all kept in a common account?

A. I don't know how it accumulated.

Q. I am not asking you that. Don't you know that the Secretary of State only had one account at the American National Bank?

A. Yes, sir.

Q. And don't you know that the item of five thousand dollars consisted of many small items as they accumulated, if your theory be correct?

A. That's true.

Q. They were already in the American National Bank, and since that time franchise taxes and others had been deposited there?

A. Yes, sir.

Q. And the Secretary of State drew a check for five thousand dollars on that account and sent it to Temple?

A. Yes, sir.

Q. Now, do you know where he got that original five thousand dollars?

A. It was just five thousand dollars.

Q. Got five thousand dollars out of the common fund belonging to the State of Texas, isn't that so?

A. I don't think it belongs to the State of Texas.

Q. Don't that money in the American National Bank deposited in the name of the Secretary of State belong to the State of Texas?

A. No, sir, not all of it.

Q. I see. Let's see, when was it sent up there—it was June, 1915?

A. It was in June, 1915, I believe.

Q. Now, your average daily balances for June in the American National Bank was \$88,582.87?

A. Yes, sir.

Q. And out of that \$88,582.87 the Secretary of State drew \$5000 and sent to Temple?

A. Well, that was not included in that balance.

Q. Wasn't included? Well, what is the balance before that?—look at the book and tell me what it was in May?

A. I didn't work up any further back than June.

Q. Well, you can look at the book and tell me how much you had on hand in the American National Bank in May?

A. The first day of May the balance in the American National Bank was \$309,734.65.

Q. How much?

A. Three hundred and nine thousand dollars.

Q. How much was it the last of May?

A. \$90,140.80.

Q. Roughly estimating it, what was the monthly balance in May? Can't you tell it there pretty quickly—roughly estimating it, I don't mean to be exactly accurate?

A. I presume during the month of May the daily balances would run something between two hundred and fifty and three hundred thousand dollars.

Mr. Hanger: Where was that?

A. In the American National Bank.

Q. All right. Out of that monthly balance of two hundred and fifty or three hundred thousand dollars, the Secretary drew five thousand dollars in favor of the Temple State Bank, and yet you sit there and tell the Court that that five thousand dollars consisted of little items that had been collected at times and deposited in the bank. Now, isn't it true that you don't know what the funds were taken from?

A. Wasn't any funds taken at all except the balance.

Q. Well, now—

Mr. Hanger: I insist that the witness is entitled to answer.

General Crane: Well, let him answer.

A. It shows that there was a balance there exclusive of anything it was claimed the State might have in the American National Bank, and that was transferred to Temple.

Q. You state there was but one account there?

A. Only one account.

Q. And of that \$250,000 the Secretary of State drew \$5000?

A. Yes, sir.

Q. And now you tell the Court that you know what particular items in that big account of \$250,000 were transferred to Temple by that check?

A. I tell the Court this—

Q. No, answer the question. Do you tell the Court that you know now that it was items that had been col-

lected, overcharges to the customers of the State, that was transferred to Temple, or wasn't it simply \$5000 of the Secretary of State's money?

A. Five thousand dollars of the money the Secretary of State had deposited in the American National Bank.

Q. Sure—then you will retract the statement you made first that the five thousand dollars sent up to Temple consisted of overcharge items that had been coming in there for years and did not belong to the State?

A. Well, it was a balance that did not belong to the State; it was an accumulation.

Q. Did you mean to say there is a balance in that big account that don't belong to the State?

A. Yes, sir.

Q. But you don't mean to say that the little aggregate items were transferred to Temple?

A. Yes, sir, five thousand dollars went up there.

Q. Just five thousand dollars went up there?

A. Yes, sir.

Q. Now, when did you say you began to make settlements quarterly?

A. For the quarter ending June, 1916, that is the time, and down.

Q. 1916? During Governor Ferguson's administration?

A. Yes, sir.

Q. Now, you don't mean to say that the law was passed at that time? But you mean to say those in authority construed the law to give them the right to settle every ninety days, is that what you mean?

A. Franchise taxes, yes, sir.

Q. Settle franchise taxes every ninety days? Yes?

A. Yes.

Q. Now, your deposits that were made, your checks in collection were ordinarily deposited in the American National Bank?

A. Yes, sir.

Q. After the money was collected it was transferred to the Temple State Bank, is that it?

A. Some of it, some of the deposits went direct to Temple.

Q. Isn't it a fact most of the deposits were made with the American National Bank, and afterwards, after the money was collected it was checked out and sent to the Temple State Bank?

A. No, sir, it is not a fact with the exception of—I can give you the items, if you like.

Q. All right, that will be more satisfactory.

A. \$5,000 was by check on the American National Bank.

Q. Yes.

A. There was one deposit, in May, 1916, of \$20,000 that was made by check.

Q. By check where?

A. On the American National Bank, payable to the Temple State Bank.

Q. Exactly. Well, that was taking money out of the American National Bank and putting it in the Temple State Bank?

A. Transferring it.

Q. Transferring the funds after they had been collected?

A. Yes, sir.

Q. All right, now. Then the \$50,000 and the \$250,000 were money that was checked—moneys that were checked. All right now, you say you have \$5,000 and \$20,000 and you have \$50,000 and \$250,000—you have \$325,000 there in cool cash, taken out of the American National Bank and transferred to the Temple State Bank, haven't you?

A. Yes, sir.

Q. It wasn't sent there for collection, but was sent there as a deposit for that bank? The State Treasury was open all that time, wasn't it?

A. Certainly was.

Q. Now, there was \$5,000—beg pardon—

A. I beg pardon, that is February, 1917, and March 1—\$60,000 and \$50,000.

Q. \$60,000 February, 1917, and \$50,000 on March 1 following?

Senator Bee: What year, General?

General Crane: 1917, isn't it?

A. No, sir, \$60,000 in 1916, and \$50,000 following.

Q. That's \$110,000 more than you told us about?

A. Yes, sir, I overlooked it.

Q. So that \$110,000 added to \$325,000 would make \$435,000 transferred to the Temple State Bank, wouldn't it?

A. Yes, sir.

Q. Now, for the purpose of collecting or clearing, as it is called, is simply to remove the cash from one bank to the other?

A. To make a transfer, yes, sir.
 Q. And all those periods, all those times the State Treasury was open and accessible, and the money could have been deposited in it?

A. No, it wasn't possible, because we didn't clear the items—

Q. Didn't you say the money was down here in the American National Bank?

A. Yes, sir.

Q. Wasn't it subject to the check of the Secretary of State?

A. Yes, sir.

Q. Didn't he check it out to take it out to Temple?

A. Yes, sir.

Q. Couldn't he have checked it out and put it in the Treasury just as well?

A. I don't know exactly what amounts—

Q. You knew as well as you knew what amounts to take to the Temple Bank, wouldn't you?

A. No, sir, not at all, because the reports show that that runs at least from \$700 to \$1,500 each month, accumulation checks. If it is turned into the Treasury we wouldn't get the money back.

Q. There was plenty of money left in the American National to pay that money back?

A. Yes, sir.

Q. Even after taking it to Temple?

A. Yes, sir.

Q. So you could have paid these return checks out of the American National Bank funds just as easy with the people's money in the State Treasury as you could in Governor Ferguson's Bank at Temple?

A. If we didn't owe too much, yes, sir.

Q. Couldn't you make your report just as well with the money in the State Treasury as you could with it in the Temple State Bank, or the American National?

A. No, sir.

Q. You could not?

A. I could not.

Q. You could not do that?

A. No, sir.

Q. That would have been a physical impossibility?

A. It would have.

Q. Yes?

A. To do it correctly.

Q. To do it correctly?

A. Yes, sir.

Q. You mean to say that at the end of thirty days you could not take

it to the Treasury with the report that "I have collected during this month \$300,000.00; I have heretofore deposited with you \$250,000.00, the receipt for which I hold and attach hereto, and the duplicate warrants which I hold—the Comptroller's warrants attached hereto, and which are now in Treasury. I tender you the balance here." You could not have done that?

A. You could do that, sure.

Q. It would have been easy?

A. It would have been a whole lot of trouble.

Q. Temple is some seventy miles away, isn't it, seventy-three?

A. I don't know what distance it is.

Q. It is up in Bell County?

A. Bell County.

Q. Williamson County intervenes between Travis and Bell?

A. Yes, sir.

Q. The distance from the State Treasury to the American National Bank is about three blocks, isn't it?

A. Yes, sir,—well, it is about six.

Q. Less than a quarter of a mile, isn't it?

A. Yes, sir.

Q. With a paved street and all the facilities for removing the cash, if it became necessary?

A. Street cars and facilities.

Q. Street cars and all that? A Senator asks you this question: "You have said fifteen thousand dollars in checks against this excess fund had been issued by the Secretary of State upon the American National Bank. Now, if those checks had been presented to the American National Bank the month after you sent the five thousand dollars to the Temple State Bank, would they have been paid?"

A. Yes, sir.

Q. They would not have been paid out of this five thousand dollars, would they?

A. No, sir.

Q. They would have been paid by the Secretary of State out of his general deposit, wouldn't they?

A. Yes, sir.

Q. As State funds?

A. That wasn't State funds. They would have been paid to the parties they belonged to.

Q. The money would have been paid out of the State funds of the money you had in the bank down there?

A. Out of the deposit.

Q. Out of the deposit made by the Secretary of State?

A. Yes, sir.

Q. And the Secretary of State received his commission from the State of Texas?

A. Yes, sir.

Q. Had no authority to receive that money except in the name of the State of Texas, did he?

A. I don't know about that.

Q. Now, don't you know it as a fact, don't you know he as Secretary of State had no authority to receive any money except of this kind for franchise taxes, or anything else of that sort, except in the name of the State of Texas?

A. No, I don't know that.

Q. You don't know that?

A. No, sir.

Q. Didn't he issue receipts as Secretary of State?

A. Yes, sir.

Q. Of what state?

A. Texas.

Q. All right, then, he was the agent and servant of the State of Texas, wasn't he?

A. Yes, sir.

Q. And so received that money, as the law contemplates?

A. If I understand it,—

Q. I don't want your legal conclusion, I am asking you what the fact was—he received it as Secretary of State?

A. Yes, sir.

Q. And held it as Secretary of State?

A. Yes, sir.

Q. Then can't you say he received the money as agent of Texas and held it as the agent of Texas?

A. Oh, as an agent of Texas, yes, sir.

Q. Sure. A Senator has asked this question again, I think I have covered it but I will repeat it: "If you say the five thousand dollars transferred to the Temple State Bank did not belong to the people of Texas, upon what theory did the Secretary of State exercise the right to issue another check against it signed as Secretary of the State?"

A. I don't know about that.

Q. You don't know about that?

A. No, sir.

Q. Who directed this change to be made from a monthly to quarterly payments?

A. Mr. McKay, Secretary of State.

Q. Did you settle every month, deliver all the money in the American National Bank to the Treasury of the State during the months of October and November?

A. Every cent of it, yes, sir.

Q. The first of the month?

A. Yes, sir.

Q. Your drafts will show that?

A. Yes, sir.

Q. But the five thousand dollars remained in the Temple State Bank over June, July, August, September, October, November, December, and January, February and March of the following year, and was increased in April to \$22,887, wasn't it?

A. Yes, sir.

Q. Then \$33,123?

A. Yes, sir.

Q. You reached the high water mark in the month of June, 1917, \$354,841.70?

A. Yes, sir.

Q. The quarterly settlements then were in operation?

A. Yes, sir.

Q. July following that June settlement, and the drawing of that money down here, you had in the Temple State Bank, in the month of July of this year, \$123,749.34, didn't you?

A. Yes, sir.

Q. I guess you had fifteen thousand dollars still left there?

A. Yes, sir.

Q. That is this month, last month?

A. Last month.

Q. You haven't your September statement?

A. No, sir, I haven't quite finished it.

Q. How much is there there now, September?

A. In the Temple State Bank?

Q. Yes, sir.

A. That is the balance at present.

Q. Fifteen thousand?

A. Yes, sir.

Q. Is there any more there?

A. No, sir.

Q. None other has been sent there?

A. None at all.

Q. But the fifteen thousand dollars is there now?

A. Yes, sir.

Q. It has not been increased any way since the investigation began, nor diminished, has it?

A. This investigation, no, not since the twelfth day of July.

Q. Yes. Somebody has asked the question, perhaps it is a Senator, and if so, I will repeat it: "If the settlements were made monthly before Mr. McKay came in as Secretary of State?"

A. Monthly reports were made up to May, 1916.

Q. Yes, and monthly settlements made?

A. Yes, sir.

The Chair: I have some questions here by some of the Senators I will read to the witness, Mr. Hanger, unless you want to ask him some questions on redirect first?

Mr. Hanger: Well, I want to ask him some on redirect.

The Chair: Well, would you prefer to do that first?

Mr. Hanger: Well, I might cover those probably. It doesn't make any difference, go ahead and ask him, then.

The Chair: Senator Page asks this question: Explain fully just what the \$5000 transferred to Temple consisted of? If the Secretary of State had \$5000 that you say did not belong to the State, state particularly to whom it did belong? State fully the nature of this fund, and how was it collected and accumulated?

A. The accumulation is from returned checks that were sent out for excess remittances. For instance, we got a remittance for a charter, they figured the franchise for a year in advance, when in fact it is payable up only to the first of May, but payable in May, all franchise taxes. Possibly he has a dollar and a half or two dollars and a half return checks after he sent in his remittances. Now, a great many of these checks have been lost—some might accrue from franchise taxes, some from charter, some from certified work, sometimes they remit too much for a commission, a dollar and a quarter or a dollar and a half for a commission—send some back in small checks from time to time in the department, small checks have been lost and not cashed, and they gradually accumulate them; I get in behind them and write and ask them why they don't cash the checks; and this goes on for years and years, and once in a while there will be a little old check three years old, fifty cents,

might bob up, and that is the way that fund accumulated.

The Chair: All right.

Senator Gibson: That wasn't all the question. To whom did it belong?

A. Well, to different parties all over the United States. You know, in making these remittances, attorneys make remittances and we send certified copies back to them and they lay the checks aside, or something, and that is the way that fund accumulates.

Senator Gibson: Well, suppose they never do turn up, what becomes of them?

A. Well, they just lay there in the bank.

The Chair: Another question by Senator Page: With the exception of the \$5000 mentioned, were all moneys on hand paid into the State Treasury quarterly? Refer to and point out the statute authorizing quarterly settlements for franchise tax. I will divide the question, you may answer the first part of the question first: With the exception of the \$5000 mentioned, were all moneys on hand paid into the Treasury quarterly?

A. No, nothing except franchise taxes. All other funds had been settled at the end of each month all the time.

Senator Page: And all franchise taxes had been settled quarterly?

A. Since May, 1916.

The Chair: Now, the second division: Refer to and point out the statute authorizing quarterly settlements for franchise tax?

(Mr. Hanger handed the witness the statute.)

General Crane: I believe the witness was asked about that.

Mr. Henry: He is going on.

A. I will point it out. This is Article 3833 of the Revised Civil Statutes of 1911.

Mr. Hanger: Read it.

A. "3833"—

Senator Page: Yes, sir, just read the statute, please, sir?

A. "It shall be the duty of the Secretary of State, Commissioner of the General Land Office, Comptroller, Treasurer, Commissioner of Agriculture, Commissioner of Insurance and Banking, the State Librarian, Adjutant General and Attorney General,"—wait a minute—"to furnish documents"—wait, I have got the wrong one.

General Crane: Well, that is part of it. I think you will have to get that to see what is payable quarterly, for this service that is payable quarterly you will find. The body of that statute was passed in 1848, wasn't it?

A. This is 3836 (reading): "It shall be the duty of the Secretary of State, Commissioner of the General Land Office, Comptroller, Treasurer, Commissioner of Agriculture, Commissioner of Insurance and Banking, State Librarian, Adjutant General and Attorney General, respectively, to keep fee books in their several offices in which they shall enter all the fees received for any of the services named in this chapter; and they shall quarterly file with the Comptroller an account of all fees so received by them respectively; which account shall be verified by the affidavit of the officer rendering the same; and such officers shall also, at the end of each quarter, pay over to the Treasurer of the State all money received by them, respectively, under the provisions of this chapter."

Senator Page: The franchise tax is not mentioned there, is it?

A. No, sir.

The Chair: All right. This is a question by Senator Johnston, of Harris: "Were deposits in the American National Bank in the nature of cash deposits, or were they checks received by the Secretary of State in settlement of fees, and placed in the bank simply for collection as a convenience to the department?"

A. The most of it was by checks and exchange, very little cash was ever remitted to the department; once in a while a dollar for a commission in cash; nearly all fees collected by the department are collected by checks and exchange.

The Chair: Senator Bee sends up this question: "If I sent the Secretary of State a postoffice money order for \$25.00, how would the Secretary of State collect the order? If he collected it through the American National Bank, was that money paid in to the State Treasury? If so, how soon after its collection?"

A. A money order is just endorsed by the Secretary of State and deposited in the American National Bank, just as all other checks and vouchers.

Senator Bee: The last part of the question is not answered?

A. A settlement is made at the end of the month—if it is a fee, any other fee except franchise tax, a re-

port is made at the end of the month and turned over into the State Treasury.

The Chair: Senator Bee sends up this question also: "Has there been any accumulation of the 'unclaimed fund' since it reached the sum of \$5,000.00, which was deposited in the Temple State Bank in 1915? If so, state what has been done with the excess above the \$5,000.00, if any?"

A. I have a list here of checks that will give you an idea as to how that accumulates, beginning in 1915, when I was first made cashier of the department. We have a check, 65, February, 1915, 50 cents—

Mr. Hanger: Pardon me, what does "65" mean—the number of the check?

A. That is the number of the check.

Mr. Hanger: All right.

A. This is a long list, I don't know whether you want me to read it all?

General Crane: Can't you give the aggregate amount?

A. Yes, sir. The aggregate amount is \$4,467.65, but a great many of those are checks that have been recently issued, which have been paid.

Senator Bee: I understood the witness to state, I might have made a mistake, that in July, 1915, this \$5,000 had been turned over to the Temple State Bank, but what I want to know is, has there been any accumulation in this fund since July 1, 1915?

A. Yes, I just said some of these checks are still out, some are over two years old.

Mr. Hanger: Senator Bee says how much of that is still out, do you know?

A. Well, I don't know, unless I add it up; but at that time we had outstanding checks of \$4467.65. Of course, since then a good many checks have been paid.

Mr. Hanger: Well, what has been done with the accumulation since then?

A. Well, it has been here in the American National Bank.

General Crane: Has the Chair finished?

The Chair: No, sir. These are questions, by Senator Woodward: Did the State get any interest on the daily balance of the money in the American National Bank, which

was transferred to the Temple State Bank?

A. They have not received a cent of interest on any deposits in the American National Bank, that I know of.

The Chair (reading): Did the Temple State Bank pay any interest on money that was transferred to it from the American National Bank?

A. No, sir.

The Chair (reading): Has the State lost any money, or has it taken hazardous risks by reason of the deposits in the Temple State Bank?

A. No, sir.

The Chair (reading): Has the business of your department been inconvenienced by reason of your transactions with the Temple State Bank?

A. No, sir.

The Chair (reading): Did you hear of any complaints from Austin banks on account of the transfer of money from Austin banks to the Temple State bank?

A. Only on one occasion they laughingly remarked to me it was kind of digging into their deposits down there.

The Chair (Reading): Are you authorized to accept interest on money in banks which has been accumulated in the various ways that the money accumulates in banks before it is cleared, and is transferred to the Treasury?

A. No, sir.

The Chair (Reading): Have any checks against the \$5000 fund been paid since the \$5000 was deposited in the Temple State Bank? If so, what fund paid them?—By Gibson.

A. We don't keep any separate funds at all until after the monthly reports are made, it is all just deposited in a book, and if there are any checks out of that book that is an accumulation. I don't remember it, I don't remember any of these old checks being paid recently.

The Chair (Reading): How long have you been connected with the Secretary of State's office, and has the State ever gotten interest on any moneys deposited in any bank, as far as your recollection or information extends?—By Hudspeth.

A. I have been with the department since January, 1911, nearly seven years, and the department has never received any interest on any

deposits that they made anywhere.

The Chair: All right, Mr. Hanger.

General Crane: I want to ask two or three questions that were suggested, before I turn the witness over to him.

Re-Cross Examination By General Crane.

Q. Mr. Witness, did you ever have any experience in the banking business?

A. No, sir.

Q. You do not know, then, that it is common for a bank that is in operation in the same community for a long time, to get small balances of deposits by customers that are never checked out quite?

A. I understand that that is the rule, I don't know personally at all.

Q. Yes, those things are done all the time. In fees that are collected, are they not, or overpayments?

A. Oh, yes.

Q. And sometimes underpayments, and you have to get him to return it, and—

A. Yes, sir.

Q. —back again?

General Crane: Now, Mr. President, I am going to ask leave to read this statute to which they refer, so that the Senators may get the whole of it just as it is:

"Chapter 51, Title 58.

"It shall be the duty of the Secretary of State, Commissioner of the General Land Office, Comptroller, Treasurer, Commissioner of Agriculture, Commissioner of Insurance and Banking, State Librarian, Adjutant General and Attorney General to furnish any person who may apply for the same with a copy of any paper, document or record in their respective offices, and also to give certificates attested by the seals of their respective offices, certifying to any fact or facts contained in the papers, documents or records of their offices to any person applying for the same.

"It shall be lawful for the officers named in the preceding Article to demand and receive the following fees for the services mentioned therein, except as otherwise specially provided in this Chapter:

"For copies of certain documents they shall charge 15 cents per hundred words; for copies of some other things 25 cents; for each translated copy of any paper, document or rec-

ord in their offices, including certificate and seal, for each 100 words, 30 cents;

"For the copy of any plat or map in their offices, such fee as may be established by the officer in whose office the same is made, to be determined . . . with reference to the amount of labor required. . . .

"For each certificate not otherwise provided for, 50 cents."

Senator Lattimore: What are the number of these Articles?

General Crane: These are Articles 3833, which is part of the Act of March 20, 1848, Paschal's Old Digest, 3806.

The next is Article 3834, part of Paschal's Old Digest, 3807, as amended in the Act of 1907, page 283.

Article 3835: "Nothing contained in the two preceding Articles shall authorize either of the officers therein named to demand or receive fees from any officer of the State for copies of any papers, documents, or records, in their offices, or for any certificate in relation to any matter in their offices when such copies or certificates are required in the performance of any of the official duties of such offices." Paschal's Old Digest, 3810.

Article 3836: "It shall be the duty of the Secretary of State, Commissioner of the General Land Office, Comptroller, Treasurer, Commissioner of Agriculture, Commissioner of Insurance and Banking, State Librarian, Adjutant General and Attorney General, respectively, to keep fee books in their several offices in which they shall enter all the fees received for any of the services claimed in this Chapter; and they shall quarterly file with the Comptroller an account of all fees so received by them, respectively; which account shall be verified by the affidavit of the officer rendering the same; and such officers shall also, at the end of each quarter, pay over to the Treasurer of the State all money received by them, respectively, under the provisions of this Chapter. Act March 20, 1848. Paschal's Digest, 3808."

Article 3837: "The Secretary of State, besides other fees that may be prescribed by law, is authorized and required to charge for the use of the State, the following fees:

"For each and every charter, amendment or supplement thereto, of a private corporation created for the purpose of operating or constructing a railroad, magnetic telegraph line or street railway or express company,—"

I will not read all of that unless the Senators so desire,—

" . . . a fee of \$200.00 to be paid when said charter is filed; provided, that if the authorized capital stock of said corporation shall exceed \$100,000.00, it shall be required to pay an additional fee of fifty cents for each \$1,000.00 authorized capital stock, or fractional part thereof, after the first.

"For each and every charter, amendment or supplement thereto, of a private corporation intended for the support of public worship, any benevolent, charitable, educational, missionary, literary, or scientific undertaking, the maintenance of a library, the promotion of painting, music, or other fine arts, the encouragement of agriculture or horticulture, the maintenance of public parks, the maintenance of a public cemetery, not for profit, a fee of \$10.00 to be paid when the charter is filed.

"For each and every charter, amendment or supplement thereto, of a private corporation created for any other purpose, intended for mutual profit or benefit, a fee of \$50.00 shall be paid when said charter is filed; provided, that, if the authorized capital stock of said corporation shall exceed \$10,000.00, it shall be required to pay an additional fee of \$10.00 for each additional \$10,000.00 of its authorized capital stock, or fractional part thereof, after the first.

"For each commission to every officer elected or appointed in this State, a fee of one dollar; and each and every State, district, county and precinct officer elected or appointed in this State is required to apply for and receive his commission; provided, that the Secretary of State shall not be required to forward copies of laws to nor attest the authority of any officer in this State who fails or refuses to take out his commission as required herein.

"For each official certificate a fee of one dollar.

"For each warrant or requisition, a fee of two dollars."

"For every remission of fine or forfeiture, one dollar.

"For copies of any paper, document or record in his office, for each 100 words, fifteen cents.

"For each and every charter, amendment or supplement thereto, taken out under Chapter 16, Title 25, Revised Statutes, (Channel and Dock Corporations), a fee of \$200

shall be paid to the Secretary of State for the use and benefit of the State, which shall be paid when the charter, amendment, or supplement thereto is filed for record.

"For each foreign corporation obtaining permit to do business in this State, shall pay fee as follows: Fifty dollars for the first \$10,000 of its authorized capital stock, and \$10 for each additional \$10,000 or fractional part thereof; provided, that the fee required to be paid by any foreign corporation for a permit to engage in the manufacture, sale, rental, lease or operation of all kinds of cars, or to engage in conducting, operating or managing any telegraph lines in this State, shall in no event exceed ten thousand dollars; provided, however, that mutual building and loan companies, so-called, whose stock is not permanent, but withdrawable, shall pay a fee of \$50 for the first \$100,000, or a fractional part thereof, of its authorized capital stock, and \$10 for each additional \$100,000, or a fractional part thereof; and where the company is a foreign one, then the fee shall be based upon the capital invested in the State of Texas."

This is copied from the Acts of 1907, page 500; Acts of 1905, page 135; Acts of 1889, page 93; Acts of 1889, page 87; Acts of 1883, page 72; Acts of 1909, page 267.

"Article 3838. The minimum fee for any foreign building and loan company shall be \$250; provided, further, that the fee required to be paid by any foreign corporation for a permit to do business of loaning money in this State shall in no event exceed \$1000."

That refers to the same Act of 1907, mentioned in the previous one.

"Article 3839,"—that refers to pending suits—I will not read it, unless they wish it.

"Article 3840. The fees mentioned in Articles 3837 and 3838 shall be paid in advance into the office of the Secretary of State, and shall be by him paid into the State Treasury monthly."

That is the statute, part of it, without taking up all the rest of it. Then it comes down to the Attorney General, the General Land Office, Comptroller, Commissioner of Insurance and Banking and the Railroad Commission. Now, if we had

the Penal Code here I would like, while we are at it, to get all the law on that matter before—

Mr. Hanger: We think that is not proper cross-examination of this witness, you can read that any time you want, that is not proper cross-examination.

General Crane: I thought, Mr. Hanger,—I might await the wishes of the Senators on that, I do not want to impose on them, but I heard some Senator ask the witness on what provision of the statute they based the quarterly settlement, and I thought that this would give him the law on the whole situation here.

Senator Bee: Mr. President, I will state to the gentleman I have Vernon's Sayles' Pocket Digest down to 1912.

General Crane: I think that will cover it.

Senator Bee: You will find that in the back under the heading of "Code Procedure."

General Crane: Yes, sir, I will read that if no one objects to it.

Mr. Hanger: We do not think that that is a part of the cross-examination. It doesn't make any difference, though.

General Crane: Chapter 3, of the Penal Code, reads as follows:

"Article 96. If any officer of the government who is by law a receiver or depository of public money, or any clerk or other person employed about the office of such officer, shall fraudulently take, or misapply, or convert it to his own use, any part of such public money, or secrete the same with intent to take, misapply or convert it to his own use, or shall pay or deliver the same to any person, knowing that he is not entitled to receive it, he shall be punished by confinement in the penitentiary for a term of not less than two nor more than ten years."

That is the Act of February 12, 1858, page 158.

Then, to that was added later, I will read—"Article 97. Within the term 'misapplication of public money,' are included the following Acts: 1. The use of any public money, in the hands of any officer of the government, for any purpose whatsoever, save that of transmitting or transporting the same to the seat of government, and its payment into the Treasury,

"2. The exchange, by any officer, of one character of public funds in his hands, for those of another character; the purchase of bank checks, or post office orders, in exchange, for transmission to the Treasury, is not included in this class.

"3. The deposit by any officer of the government, of public money in his hands, at any other place than the Treasury of the State, when the Treasury is accessible and open for business, or permitting the same to remain on deposit at such forbidden place, after the Treasury is opened.

"4. The purchase of State warrants, or other evidence of State indebtedness, by any officer of the government, with public money in his hands.

"5. The retention in his hands, by any collector of taxes, of any funds belonging to the State, for thirty days after receiving notice from the Comptroller of Public Accounts to pay the same over to the Treasurer.

"6. The wilful failure of any officer to pay into the State Treasury, at the time prescribed by law, whatever funds he may have on hand."

This is taken from the Acts of 1879, Chapter 150, page 165.

"Officer of the government defined.—Under the term 'Officer of the Government,' as used in this Chapter, are included the State Treasurer and all other heads of departments who by law may receive or keep in their care public money of the State; tax collectors, and all other officers who by the law are authorized to collect, receive or keep money due to the government."

General Crane: That is all.

The Chair: I have two more questions, Mr. Hanger. I will read them before you take him over. This is a question of Senator Henderson's (reading): Is the \$5,000 which you speak of, kept in a separate fund?

A. No, sir.

The Chair: This by Senator Bee (reading): Is the \$5,000 "unclaimed fund" the same as a suspense account in a bank? If so, will it require legislative enactment to convert it into the State Treasury?

A. That is the only way it can

get in there, so far as I know. I don't know what the law is on that. The Chair: That is all.

Re-direct Examination By Mr. Hanger.

Q. Do you know of any provision of the law now existing by which that can get into the State Treasury?

A. No, sir, I don't.

Q. That is probably further along the line than the question asked?

A. No, sir, I don't.

Q. Now, suppose that a man in remitting franchise tax to you sends you \$30. He is due to pay you only \$25. How do you handle that excess? Illustrate it with figures, so it will make it plainer than it will if you do not use the figures. There is \$5.00 excess, now, in the illustration I have used?

A. We would send him a check to cover that difference and credit his account.

Q. Suppose that he is due \$24, and he sends \$25, how do you handle that—there is \$1.00 excess there?

A. We send him a check for \$1.00.

Q. And if fifty cents, you would do the same thing?

A. Yes, sir.

Q. Now, then, at the time mentioned you say there was an accumulation of about \$5000 of that kind of money?

A. Yes, sir.

Q. Is there any account in the State Treasurer's office to which that can be paid?

A. Not that I know of.

Q. It does not belong to the Secretary of State?

A. No, sir.

Q. Now, was this \$5000 accumulation like that—was that charter fees or franchise taxes, legitimately so, or was it in excess of what the proper amount was?

General Crane: Mr. President, the witness has already stated he doesn't know what funds were transferred to the Temple State Bank out of the two or three hundred thousand dollars deposit, and from the nature of the case, that is impossible for him to say.

Mr. Hanger: I am not talking about that, I am talking about excess, about \$5000, if the General will listen.

A. It is excess over what is due to the State.

Q. Over the legal amount?

A. Yes, sir.

Q. Independent of what it was, or where it is?

A. Yes, sir.

Q. Now, the General has asked you some questions about this money. On settlement day—and this deposit—on settlement day was the money paid into the State Treasury always, has it been done?

A. Yes, sir.

Q. Do you know any difference in keeping the money in the American National Bank and in the Temple State Bank?

A. None at all.

Q. You said the average from that statement you read there—I don't see it now, but where is the statement?

Judge Bryan: Here it is.

Mr. Harris: Here it is.

Mr. Hanger: Are you through with it?

General Crane: Yes, sir.

Mr. Hanger: Yes?

Q. I read, and then the General read the balance of one hundred twenty-three thousand some odd dollars for July. Now, how long in July was there a large deposit—do you mean to say by that, that continued throughout the entire month?

A. No, that was just the average—the average.

Q. It was larger then, up to the 12th, at the time your settlement was made?

A. Yes, sir.

Q. If the 12th was the date?

A. Yes, sir.

Q. And \$15,000 only after that time?

A. Yes, sir.

Q. You said something about seven or eight hundred dollars, I suppose it was, in returned checks. You did not mean seven or eight hundred different checks, did you, per month?

A. No, no, I—

Q. What did you mean, what period of time did you mean to cover—a month?

A. What is that, Senator, you have reference to?

Q. You said something a while ago about seven or eight hundred dollars in returned checks, and, as I understood you, something about returned checks that you had handled?

A. Oh, we handled, I guess, about three or four hundred dollars a month, we issued that many.

Q. Of returned checks?

A. Eight to ten a day, yes, sir.

Q. Now, that was preliminary, merely. What are the—could you approximate here the number of collections that you handled in the course of a year, could you estimate it—as to how many different collections—I am not talking about the amount, now, but how many different collections do you make in the course of a year?

A. Why about fifteen or eighteen thousand.

Q. That is all.

General Crane: I have one or two questions.

Re-cross Examination By General Crane.

Q. You stated that there was no hazard in transferring this money to the Temple Bank?

A. I don't think so.

Q. Well, I know, but that would depend on whether the Temple Bank was always solvent, wouldn't it?

A. Yes, sir.

Q. And whether it loaned money excessively to one man or not?

A. I didn't question it.

Q. All those factors come in. You don't know anything about that?

A. No, sir.

Q. In fact, you sent the money there because you were directed to do it?

A. Mr. McKay and Mr. Bartlett told me to do it.

Q. Mr. McKay and Mr. Bartlett told you to do it?

A. Yes, sir.

Q. You acted under orders of your superior officers?

A. Yes, sir.

Q. Now, you stated that you made settlements at regular periods of time. Let me have that balance, will you, that sheet, just a minute? (Taking paper.) In July, you issued a large check against the Temple Bank, there was one issued, wasn't there?

A. No, but I accepted it; Mr. Heard, the president, came down and turned the money over to me in the office.

Q. In the office? At what time?

A. On the 12th day of July.

Q. On the 12th day of July? That wasn't the time you made your reports, was it?

A. Yes, I finished on the 12th;

I told him I would have my report ready on the 12th and for him to have the money ready.

Q. To have the money ready? When was the previous report made?

A. Well, there was a report ahead of that, you know.

Q. Just a quarter ahead of that?

A. That is—

Q. Was July the end of the quarter, the 12th of the month?

A. June was the end of the quarter.

Q. June was the end of the quarter?

A. Yes, sir.

Q. And for January, February and March you made a report about the 10th of April?

A. Yes, sir.

Q. And then for April, May, June, you reported about the 10th of July?

A. Yes, sir, about the 10th of July.

Q. Was this exchange brought to you?

A. Yes, sir, brought in exchange, some cash, and I issued one check against him for \$99,000.00.

Q. Now, isn't it true that you got two or three different checks on that date, a day or two, or two or three days apart?

A. No, no, he paid them all over—he had two or three pieces of exchange, he had some cash, and I wrote a check against him for \$99,000.00 which the bank accepted, in settlement for that quarter.

Q. You wrote a check on his bank?

A. Yes, sir.

Q. Yes. Did you put all the money into the Treasury on that date?

A. All that was due to the State of Texas, I got every cent of it.

Q. Every cent of it, yes, sir. That will do.

Re-direct Examination

By Mr. Hanger.

Q. Now, why was it the 10th or 12th, I don't know whether you explained that or not?

A. Well, it just takes that long, you know, to make up our reports.

Q. Yes—I thought you said that?

A. Our report takes in franchises, domestic charters, foreign charters, we keep separate items in our statements, and reports show what each item was.

The Chair: A question, by Senator Hudspeth (reading): Has the American National Bank ever been designated as an official depository for

State funds, and do you consider this bank safe or unsafe as a depository of State funds?

A. Yes, sir, I consider it safe. It has never been designated that I know of, it is just a question of putting it there.

The Chair: Any other questions, gentlemen?

Mr. Hanger: That is all.

General Crane: No other, that will do.

Mr. Hanger: That is all, Mr. Hanger.

(Witness excused.)

The Chair: Have the next witness called, gentlemen.

Senator Bee: Mr. President, I suggest that we stand at ease for five minutes, subject to the call of the Chair.

The Chair: The Senator from Bexar moves that the Court stand at ease subject to the call of the Chair. Any objections? There being no objection, the Court will stand at ease, subject to the call of the Chair.

(Thereupon, after the Court had stood at ease for ten minutes the following proceedings were had:)

The Chair: The Court will come to order.

Mr. Hanger: Shall we go on?

The Chair: Let the members of the Court get in position, where they can hear the testimony, please. Yes, sir, you may proceed.

Thereupon, the Respondent called

HENRY S. FOX, JR.,

who had been previously sworn under the rule, and who now, in answer to questions propounded, testified as follows:

Direct Examination

By Mr. Hanger.

Q. Mr. Fox, you have been sworn?

A. Yes, sir.

Q. Mr. Fox, do you know Mr. Mansfield?

A. Yes, sir.

Q. What are—H. P. Mansfield, is that it?

A. Yes, sir.

Q. Who was a witness here the other day?

A. Yes, sir.

Q. Mr. Fox, did you have any transaction with Mr. Mansfield by which his interest in the Dayton Lumber Company contract or suit—not suit, but contract or transaction, was pledged to you?

A. Yes, sir.
 Q. Or to your bank?
 A. Yes, sir.
 The Chair: A little louder, Mr. Fox.
 Q. Talk a little louder. For how much was the debt?
 A. Approximately six thousand dollars at this time.
 Q. Has it been reduced any lately?
 A. No, sir.
 Q. Have you ever in any way released that—you or your bank released that in any way?
 A. No, sir.
 Q. Do you still hold that as collateral?
 A. Yes, sir.
 Q. To secure his debt?
 A. Under assignment, yes, sir.
 Q. How did he come to have—has he the papers?
 A. He has the contract and the decree of the Court.
 Q. How did he come to have them?
 A. He borrowed them from us.
 Q. For what purpose?
 A. His secretary, Mrs. Belden, came down and got them for the purpose—stating that it was for the purpose of making a settlement.
 Senator Hudspeth: Louder. I can't hear, and I don't suppose the President can hear you.
 A. They were secured by his secretary, Mrs. Belden.
 Q. That probably wouldn't be admissible; he didn't get them himself.
 Mr. Harris: Go ahead, and state it.
 A. For the purpose of making a settlement.
 Q. Were they to be returned?
 A. Yes, sir.
 Q. Have they ever been?
 A. No, sir.
 Mr. Hanger: Take the witness.

Cross Examination
By General Crane.

Q. Didn't you state to Mr. Kittrell and Mr. Mansfield, both of them—you know Mr. Kittrell, do you not?
 A. Yes, sir.
 Q. That you were going to be neutral in that controversy between them and the Governor?
 A. I did.
 Q. That you were friendly to both?

A. I did.
 Q. Mr. Mansfield is a customer of your bank, and has been for a number of years, has he not?
 A. Yes, sir.
 Q. And you turned this collateral over to him with the understanding that he was going to seek to make settlement, and bring suit, if necessary to bring suit?
 A. No, sir; it is not collateral, it is merely a contract. The collateral was retained; the collateral is a written assignment; it has been filed with the Temple State Bank.
 Q. All right. It was given you as security for a debt, wasn't it?
 A. It was merely to show the transaction, Judge Crane; it was a contract.
 Q. Well, wasn't this contract given you to secure the debt?
 A. The assignment of the contract.
 Q. The assignment of the contract was given you to secure the debt?
 A. Which we still retain.
 Q. And you still hold an indebtedness of \$6,200?
 A. The amount has varied! it has increased—
 Q. Well, you had other securities at that time?
 A. And still have them.
 Q. Well, didn't you at that time?
 A. Yes, sir, and still have them.
 Q. Your account is amply secured?
 A. As it stands?
 Q. Yes.
 A. Yes, sir.
 Q. And you didn't expect to deny Mr. Mansfield the right to collect any securities that were held by you as collateral to secure his debt, did you?
 A. No, sir.
 Q. And if that was his purpose he would have your consent to go ahead and collect them, wouldn't he?
 A. Subject to my rights.
 Q. Subject to your rights, provided the proceeds were paid into your hands?
 A. Yes, sir.
 Q. And if Mr. Kittrell, his attorney, were to go to the Governor, or the Temple Bank, and tell them what he wanted was a settlement, and they could pay the money to you, if they wanted to, that would be all right, wouldn't it?
 A. Yes, sir.
 Q. Sure. Now, you know as a

business man or a banker, that the man who holds the collateral as security, he must either enforce it himself or permit the owner of it to enforce it, mustn't he?

A. That is true.

Q. That is true. Now, you wouldn't enforce it, would you?

A. No, sir, I wouldn't enforce it.

Q. And there was nothing else except for Mr. Mansfield to enforce it, if he wanted to, was there?

A. That was his prerogative.

Q. That was his prerogative, and you recognized it at that time. Who are the directors in your bank, Mr. Fox—a number of them, I take it?

A. Yes, sir.

Q. Do you recall the principal ones?

A. Yes, sir, M. M. Graves, M. P. Geiselman—

Q. Speak a little louder, Mr. Fox.

A. H. A. Paine, J. N. Taub, W. C. Twyman, F. P. Kolb, Dr. J. Allen Kyle, A. R. Howard, myself, August de Zavalla—

Q. That will do, Mr. Fox.

A. There is one other.

Q. Well, never mind about that. Do you know anything about the payment of this \$156,500 to the Governor?

Mr. Hanger: He was asked that. He said he didn't know.

A. No, sir, I don't know anything about that.

General Crane: He was asked that?

Mr. Harris: Yes, sir.

Mr. Hanger: Yes, sir, Mr. Harris asked him.

The Chair: That question was asked him the other day.

General Crane: Very well.

Q. Has the Governor a safety deposit box in your bank?

A. No, sir.

Q. Did he ever deposit any large amount of currency there at one time?

A. No, sir. I read off a list of all his deposits.

General Crane: That is all.

Re-cross Examination

By Mr. Hanger.

Q. Mr. Fox, there is one question I forgot to ask you.

A. Yes, sir.

Q. Did your bank or you notify the Governor or the Temple State Bank of this assignment?

A. Yes, sir, on two separate occasions.

Q. From Mr. Mansfield. I say, did you notify them?

A. Of the assignment—on two different occasions.

Q. Of the assignment from Mr. Mansfield to your bank?

A. Yes, sir.

Q. On two separate occasions?

A. Yes, sir, and I have their acknowledgment of it.

Q. From the Temple State Bank?

A. Yes, sir, signed by Mr. Hughes, cashier.

Mr. Hanger: That is all.

Re-Cross Examination

By General Crane.

Q. They have never offered to pay you anything, pay any balance that might be due, or exhibit you a statement of the account, have they?

A. No, sir.

Q. They have not given you a statement of it even, have they?

A. No, sir.

General Crane: That will do, sir.

Mr. Hanger: You understood there was a controversy about the amount, did you not?

The Witness: Yes, sir.

General Crane: You also knew that all the money had been drawn out of the account and it had been closed, didn't you?

The Witness: No, sir.

General Crane: Didn't know that?

The Witness: Not until the investigation.

General Crane: That is all.

Mr. Hanger: That is all.

The Chair: A Senator is preparing a question.

Mr. Hanger: Oh, just a moment, some one wants to ask a question.

The Chair (Reading): "Did the assignment of Mansfield cover bonds one, two and three, or the proceeds of same when paid?" By Lattimore.

The Witness: The proceeds of same.

The Chair: Anything further from the witness.

Mr. Hanger: That is all.

Senator Bailey: Mr. President, I would like to propound a question.

The Chair: Senator Bailey asks the indulgence of the Court while he prepares a question.

Senator Lattimore: Mr. Presi-

dent, I don't want the witness to misunderstand me. If I understand the testimony, bonds 1, 2 and 3 were those which were paid before the escrow account was deposited, and I just wanted to know if the assignment made by Mr. Mansfield covered the bonds or the proceeds.

The Chair: He said it did not cover the bonds but the proceeds.

Senator Lattimore: Oh, the proceeds.

The Witness: The proceeds are part of the \$24,000, aren't they?

Senator Lattimore: The proceeds of bonds 1, 2 and 3.

The Witness: I may be mistaken, then; I don't know the numbers off hand. I withdraw my answer, not being able to state positively.

The Chair (reading): "Was any check to cover the fee paid to Attorney Stevens paid through your bank, and if so, who signed it?" By Bailey.

The Witness: I don't know.

The Chair: Did Senator Bailey hear the witness?

Senator Bailey: Yes, sir.

The Chair: All right. Any further questions?

The Witness: I can ascertain that.

The Chair: Stand aside Mr. Fox. Call the next witness, gentlemen.

Mr. Hanger: Mr. Davis, come around.

The Chair: Is Mr. Fox excused now?

Mr. Hanger: Yes, sir.

Thereupon, the Respondent called

J. H. DAVIS, JR.,

who having been previously sworn under the rule, and who now, in answer to questions propounded, testified as follows:

Direct Examination

By Mr. Hanger.

Q. Have you been sworn?

A. Yes, sir.

Q. What is your name?

A. J. H. Davis, Jr.

Q. Now, talk a little bit louder, so they can hear you out on the outskirts. Where do you live, Mr. Davis?

A. I live in Austin.

Q. How long have you lived in Austin?

A. About, a little over two years and a half.

Q. Where did you live before coming to Austin?

A. Temple, Bell County.

Q. How long did you live in Temple?

A. All my life.

Q. Born in Bell County?

A. Yes, sir.

Q. How old are you, Mr. Davis?

A. Twenty-seven years old.

Q. Have you any official position?

A. I am the Governor's Assistant Secretary.

Q. What did you do before coming to Austin?

A. I was in the Governor's bank, as assistant cashier, the Temple State Bank.

Q. How long had you been in that bank?

A. A little over six years.

Q. Are you a man of family?

A. Yes, sir.

Q. Mr. Davis, since you have been at Austin and before that time while you were at Temple, what connection did you have with the transaction of the Governor's private business affairs, if any?

A. Before I came to Austin?

Q. And since you have been here in Austin.

A. Before I came to Austin I was not so intimately acquainted with his private affairs. I was his stenographer and also assistant cashier of the Temple State Bank, which constituted most of my duties.

The Chair: Talk a little louder so we can all hear.

Q. You will have to talk louder. Talk a little slower and louder.

A. Well, in the bank I worked the window as a teller in the bank, and was the Governor's stenographer, although I did not personally look after his private affairs to any great extent.

Q. Well, after you—since coming to Austin?

A. Since coming to Austin I have practically had all of his private papers and transactions under my care, and whenever he was away from the city or where he was busy in the office, if anything came up which I could attend to for him I did so.

Mr. Hanger: I am sorry, I will have to wait until Mr. Bickler gets those letters.

The Chair: Counsel asks the indulgence of the Court while some letters are being gotten. (Thereupon

the letters were brought in and handed to Mr. Hanger.)

Q. Mr. Davis, I am handing you a file here delivered to the stenographers and to counsel this morning by Mr. Henry Blum. State whether or not those are letters from you. They all are, I think, except on the yellow sheets, are signed by J. H. Davis, Jr. Are you the J. H. Davis, Jr., who signed those?

A. I am.

Q. In writing those letters were you engaged in transacting the business therein mentioned, for the Governor?

A. Yes, sir.

Q. Now, Mr. Davis, have you the data or memoranda there showing when the Canyon—what is known as the Canyon City Fund came into the hands of Governor Ferguson?

A. Yes, sir, I have.

Q. Go ahead, now give the dates when it came.

A. It didn't all come at one time—that is, the Governor received from Governor Colquitt certificates of deposits and some deficiency warrants and also, there was an open account in the First National Bank of Plainview—not Plainview, but the First National Bank of Amarillo. That money was remitted at special intervals from those two banks, the First National Bank of Plainview and the First National Bank of Amarillo, to the Governor here at Austin, and by him deposited in the American National Bank of Austin or the Temple State Bank at Temple.

Q. Well, now, what is that that you are reading from?

A. That is a memorandum book that I keep in the office of the Governor.

Q. Who kept that book?

A. I did.

Q. Did the Governor keep it?

A. No, sir.

Q. Did he ever see it; that you know of?

A. He saw it about a month ago, I believe is the first time he ever saw it.

Q. Mr. Davis, have you anything there showing when these various items were received?

A. No, sir, I have not; I did not keep any account with each separate bank because they were being remitted from one bank here, and from here deposited in other banks. There was no system of bookkeeping in the Gov-

ernor's office, and I only kept this as a matter of record there in the office. I knew the total amount which he received, and of course, when it was checked out, why, I kept a record of that.

Q. Well, how much was the total amount received—have you it added up there?

A. The total amount received at all times from the beginning of the Governor's administration until all the interest had been paid and all the remittances made from those banks in West Texas, was \$101,607.18.

Q. Yes?

General Crane: One moment, did you say six hundred and seventy?

Mr. Hanger: Six naught seven.

A. \$101,607.18.

Q. Now, when that money was sent in here who handled the money and the transmission from here, the Governor's office here and the Temple State Bank or the American National Bank as the case might be?

A. I think I handled all those myself.

Q. You will have to speak louder.

A. I believe that I handled all of those transactions myself, depositing the money.

Q. Was there?—

Mr. Hanger (To General Crane): I believe I may assume that the contract had been let when they came in?

General Crane: I think so.

Q. The contract had been let before Governor Ferguson came into office?

A. That is my understanding, yes, sir.

Q. Yes, the building was then under construction?

A. Yes, sir.

Q. How was the money paid out?

A. With the exception of one check given on January 23, 1915, for \$1,000.00, to George Endress, architect, all other checks were given to the State Treasurer.

Q. Will you now, Mr. Davis, read these checks—I rather think they come in the proper order, but they may not. Will you read these checks? Read them out in a distinct voice so that the stenographers and all members of the Court can hear them?

A. You just want the dates and to whom payable and the bank?

Q. I want the dates, to whom payable, the bank, the amount, and by whom signed?

A. This one is January 23, 1915,

to George Endress, \$1,000.00, one thousand dollars written out.

Q. Little louder, you will have to read louder, Mr. Davis.

A. Signed by Jas. E. Ferguson, Governor; drawn on the American National Bank of Austin.

Q. Read the memorandum down there, on what fund it is on?

A. "Payment on architect bill, Canyon City Normal."

Q. What is the next one?

A. April 5, 1915, drawn on the American National Bank of Austin, payable to J. M. Edwards, State Treasurer, \$6,000, signed Jas. E. Ferguson, Governor, with a memorandum "For credit Appropriation 750, West Texas Normal."

Q. Read the next one.

A. June 10th, 1915, drawn on the American National Bank, payable to J. M. Edwards, \$10,000, signed Jas. E. Ferguson, Governor, memorandum, "For credit to account West Texas State Normal, W-750, erect building."

General Crane: What bank?

A. The American National Bank.

General Crane: Was that a ten thousand dollar check?

A. Yes, sir.

General Crane: Of June 10th or was it another one?

A. June 10th.

General Crane: Yes, sir, all right.

A. The next is July 7th, drawn on the American National Bank, payable to J. M. Edwards, Treasurer, \$10,000, signed Jas. E. Ferguson, Governor, with a memorandum "For credit of West Texas Normal account." August 2nd, 1915, drawn on the American National Bank of Austin, payable to J. M. Edwards, State Treasurer, \$10,000, signed Jas. E. Ferguson, Governor, with memorandum "For credit West Texas Normal School." August 7th, 1915, drawn on the American National Bank at Austin, payable to J. M. Edwards, State Treasurer, \$3,507.35, signed Jas. E. Ferguson, Governor, by J. H. Davis, Jr. October 2, 1915, drawn on the American National Bank at Austin, payable to J. M. Edwards, State Treasurer, \$10,000, signed Jas. E. Ferguson, Governor, with memorandum, "For credit West Texas Normal School fund." November 27th, 1915, drawn on the Temple State Bank of Temple, payable to J. M. Edwards, State Treasurer, \$6,156, signed Jas. E. Ferguson,

Governor, with memorandum, "Canyon City Normal account," with another memorandum, "Please par."

Senator Caldwell: Please what?

A. Par. January 7th, 1916, drawn on the American National Bank at Austin, payable to J. M. Edwards, Treasurer, \$8,000, signed Jas. E. Ferguson, Governor, with memorandum, "For deposit account West Texas Normal School."

General Crane: Let me have that date again, please; I didn't get it.

A. January 7, 1916. They are not in order. November 3, 1915, drawn on the American National Bank at Austin, payable to J. M. Edwards, Treasurer, \$5,000.

Senator Caldwell: Is that November, 1915?

A. Yes, sir.

Mr. Hanger: I got them out of order, Senator. I thought I had them in order, but I was mistaken.

A. Signed Jas. E. Ferguson, Governor, with memorandum, "For credit West Texas Normal account, No. 750." February 2nd, 1916—

General Crane: One moment, Mr. Witness—did you read another check—I was listening to the questions asked—after the \$5,000 check?

A. No, sir, that was the last.

General Crane: All right.

Mr. Hanger: That was the November check.

General Crane: Oh, yes, that was the November check, all right.

A. The next is February 2nd, 1916, drawn on the American National Bank at Austin, payable to J. M. Edwards, \$6,200, signed Jas. E. Ferguson, Governor, with memorandum, "For credit West Texas Normal account." March 3rd, 1916, drawn on the American National Bank at Austin, J. M. Edwards, Treasurer, \$4,000, signed Jas. E. Ferguson, Governor, with memorandum, "For credit West Texas Normal School."

Senator Crane: Now, the date of that please.

A. March 3rd, 1916.

General Crane: All right.

A. April 26th, 1916, drawn on the American National Bank at Austin, payable to J. M. Edwards, State Treasurer, \$21,743.83, signed Jas. E. Ferguson, Governor, with memorandum, "Canyon City Normal fund."

Q. How are all these checks endorsed on the back?

Senator McNealus: Mr. President, I would like the counsel here to develop from the witness what is meant by the memorandum, "please par."

Mr. Hanger: Yes, what does that mean? It means don't charge any exchange—

Senator McNealus: I didn't know but what it involved the Senator from Duval. (Laughter).

Mr. Hanger: That means don't charge any exchange, it is par.

The Witness: That is, what it means.

The Chair: Proceed, gentlemen.

Q. How much do those add up?

A. I have them listed on this book over here (referring to book) \$101,607.18.

Q. The exact amount that you received?

A. Yes, sir.

Q. Mr. Davis, how was that money all paid out—for what? Rather not how, but for what was it paid out?

A. It was all placed in the Treasury by the Governor for the erection of the building which was burned, the Canyon City Normal building.

Q. Yes. How are all those checks endorsed?

A. The first one, to George Endress, is endorsed "Credited to account Geo. A. Endress."

Senator Lattimore: Who is that? Mr. Hanger: That is the architect, Senator.

Q. Now, the next one?

A. With the exception of the \$21,743.83 check, they are all endorsed J. M. Edwards, State Treasurer, by a rubber stamp.

Q. How was that one endorsed?

A. It is just a new stamp. Oh, I beg pardon, it bears the same endorsement—"J. M. Edwards."

Q. Yes, that is what I thought, yes. Now, there is one check in there that seems to be signed "Jas. E. Ferguson, by J. H. Davis, Jr." Get that out will you, please, sir? How did that happen to be drawn by you?

A. As I recall, the Governor left town, and before leaving the city he left with me a check for \$10,000 to the State Treasurer, drawn on the American National Bank.

Q. Out of this fund?

A. Yes, sir.

Q. For what purpose was that \$10,000 left with you?

A. To pay an estimate which

might come in from the architect, or the contractor, rather.

Q. What is the date of the check for three thousand, what is it, five hundred and seven?

A. Yes, sir, and thirty-five cents.

Q. \$3507.35. What's the date of that check?

A. August 7, 1915.

Q. Now, you say he had left a check with you on the American National Bank for \$10,000 to pay an estimate that would come in or probably come in. Did an estimate come in?

A. It did.

Q. Do you know who presented it?

A. It is my recollection that Mr. Gross presented it.

Q. You don't know how much it was for?

A. It was for \$13,507.35.

Q. Now what did you do with the check for \$10,000?

A. I deposited it with the Treasurer.

Q. And what did you do in order to raise the remaining \$3507.35?

A. I went to the bank and asked Major Roberdeau if it would be all right for me to issue that check against that account, and he said it would, and I did so.

Q. And you did that?

A. Yes, sir.

Q. Did Mr. Gross have to wait or was his payment delayed on account of the Governor's absence?

A. Not over an hour, no, sir.

Q. Now, Mr. Davis, what are these papers that are handed you now?

A. These are receipts received from the Treasurer's office after depositing the money in those various—by those various checks.

Q. Do they cover the same and all of the checks except the Endress check?

A. They do.

Mr. Hanger: We now introduce these in evidence. Do you want to see them? (To General Crane.)

General Crane: These are deposit notes, not receipts?

Mr. Hanger: Deposit warrants.

General Crane: Just read them.

Mr. Hanger (reads): "Deposit Warrant No. 2610. The Treasurer of the State of Texas will receive from James E. Ferguson, Governor, by J. M. Edwards, Treasurer, the sum of ten thousand dollars and credit

to account of State Revenue Refund to"—

Q. What is that? I can't read it?

A. It's an abbreviation for "appropriation."

Mr. Hanger: "To Refund to Appropriation W-750, account West Texas Normal. Comptroller's Office, Austin, 6-11-15. H. B. Terrell, Comptroller."

"Deposit Warrant No. 2794"—

They will not be in order, Mr. President. I suppose there will be no objection on the part of that; if so, I will arrange them.

"Deposit Warrant No. 2794. The Treasurer of the State of Texas will receive from James E. Ferguson, Governor, by J. M. Edwards, Treasurer, the sum of ten thousand dollars, and credit to account of State Revenue Refund to Appropriation W-750, account West Texas Normal School. Comptroller's Office, 7-7-15. H. B. Terrell, Comptroller."

"\$10,000. No. 2218. The Treasurer of the State of Texas will receive from Hon. James E. Ferguson, Governor, by J. M. Edwards, Treasurer, the sum of six thousand dollars, and credit to account of State Revenue Refund to Appropriation W-750, account insurance West Texas Normal, Canyon, Texas. Comptroller's Office, 5-5-15. H. B. Terrell, Comptroller."

"\$13,507.35. No. 3124"—

Q. Let me ask you, Mr. Davis, that is the amount arrived at by adding the ten thousand dollars that the Governor left and the \$3507.35 that you drew the check for?

A. That is true, yes, sir.

Mr. Hanger: "No. 3124. The Treasurer of the State of Texas will receive from James E. Ferguson, Governor, by J. M. Edwards, Treasurer, the sum of \$13,507.35, and credit to account of State Revenue Refund to Appropriation W-750, Canyon Normal School. Comptroller's Office, 8-9-15. H. B. Terrell, Comptroller."

Mr. Hanger: This is a copy of the original triplicate. "\$10,000. Deposit Warrant No. 275"—3621 is scratched out. "The Treasurer of the State of Texas will receive from James E. Ferguson, Governor, by J. M. Edwards, Treasurer, the sum of ten thousand dollars, and credit to account of State Revenue Refund to Appropriation W-750, Canyon City Normal Account."

Comptroller's Office, Oct. 2, 1915. H. B. Terrell, Comptroller."

"5,000. Deposit Warrant No. 580. The Treasurer of the State of Texas will receive from James E. Ferguson, Governor, by J. M. Edwards, Treasurer, the sum of five thousand dollars, and credit to account of State Revenue Appropriation 750-W. Comptroller's Office, Nov. 3, 1915. H. B. Terrell, Comptroller."

General Crane: Is that, 1915?

Mr. Hanger: Yes, sir.

"6,156.00. Deposit Warrant No. 772. The Treasurer of the State of Texas will receive from Hon. James E. Ferguson, Governor, by J. M. Edwards, Treasurer, the sum of \$6,156.00, and credit to account of State Revenue Refund to Appropriation W-750, Canyon City Normal. Comptroller's Office, December 1, 1915. H. B. Terrell, Comptroller."

"8,000.00. Deposit Warrant No. 1156. The Treasurer of the State of Texas will receive from James E. Ferguson, Governor, by J. M. Edwards, State Treasurer, the sum of eight thousand dollars, and credit to account of State Revenue Appropriation No. 750-W. Canyon City Normal account refund. Comptroller's Office, January 1, 1916. H. B. Terrell, Comptroller."

"\$6,200.00. Deposit Warrant No. 1322. The Treasurer of the State of Texas will receive from James E. Ferguson, Governor, by J. M. Edwards, Treasurer, the sum of six thousand two hundred dollars, and credit to account of State Revenue for account Appropriation No. 750-W, Canyon City Normal account. Comptroller's Office, February 2, 1916. H. B. Terrell, Comptroller."

General Crane: What date?

Mr. Hanger: February 2, 1916.

"4,000.00. No. 1675. The Treasurer of the State of Texas will receive from James E. Ferguson, Governor, by J. M. Edwards, Treasurer, the sum of four thousand dollars, and credit to account of State Revenue Refund Appropriation No. 750-W. Comptroller's Office, March 4, 1916. H. B. Terrell, Comptroller."

"\$21,743.83. Deposit Warrant No. 2291. The Treasurer of the State of Texas will receive from James E. Ferguson, Governor, by J. M. Edwards, Treasurer, the sum of \$21,743.83, and credit to account of State Revenue Refund to Appropriation No. 750-W, amount received Canyon City Normal account. Comptroller's Office, April 26, 1916. H. B. Terrell, Comptroller."

Q. Now, adding those together, Mr. Davis, and adding the one thousand dollars paid to the architect, does that also make the sum of \$101,607.18?

A. Yes, sir.

Q. Was all that money, Mr. Davis, received by the Governor from his predecessor paid out on the Canyon City building?

A. It was, yes, sir.

Q. By you and the Governor?

A. It was placed in the Treasury.

Q. Yes. Now, when these checks were given who took them, if any one, to the Treasury—to the Treasurer's office?

A. I did.

Q. Did you do it in each instance?

A. Every one.

Q. What is the folder that you have there by your hand?

A. It's an envelope which contained the Governor's personal account—that is, a statement and all the vouchers returned with the account from the Temple State Bank, addressed to me.

Q. Addressed to whom?

A. To me.

Q. How many of those did you receive—this seems to be marked January, 1916?

A. I don't know the exact number, but—

Q. (Interrupting): About how many of those did you receive during the years 1915, 1916 and 1917?

A. Over half a dozen.

Q. Were ever any of those, so far as you know, mailed to the Governor direct?

A. Not that I know of, no, sir.

Q. Were they all, so far as you are aware, mailed to you personally?

A. Yes, sir.

Q. By the Temple State Bank. Mr. Davis, did you say you wrote these letters that were submitted to you?

A. Yes, sir.

Mr. Hanger: I will find the letter directly. There is a letter in there signed J. H. Davis, Jr., dated, I think, September 3, 1915. Is that right?

Mr. Harris: That's correct.

Mr. Hanger: 1916 or 1915?

Mr. Harris: 1915. In 1916 the account was closed out.

Mr. Hanger: Will you pardon us just a little bit, please?

The Chair: Yes, sir.

Mr. Hanger: The letters have gotten mixed. Here it is.

Q. The letter I hand you is dated what?

A. September 3, 1915.

Mr. Hanger: Let me read it (Reads): "September 3, 1915. Temple State Bank, Temple, Texas. Gentlemen: Please send me a statement of James E. Ferguson, Governor, account, and also his personal account up to September 1, 1915. Yours truly, J. H. Davis, Jr."

Q. Did you write that?

A. Yes, sir.

Q. Did the Governor see it before you wrote it?

A. No, sir.

Q. Did they send you a statement?

A. They did.

Q. Did you submit that statement to the Governor?

A. I did not.

Q. Well, was the Governor a busy man or otherwise at that time?

A. He has been very busy ever since he has been in office.

Q. Why did you not submit such statements as you received in response to that letter to the Governor?

A. Well, I just didn't think it was necessary. I was attempting to attend to that matter myself and help him all—in any way possible.

Q. Now, there is another letter here somewhere written or seems to be signed by the Governor, in which he requested the same statement. That, I think, was—

Mr. Harris (Interrupting): March 20, 1916.

Q. March 20, 1916. Do you remember that letter?

A. I don't recall the letter right now.

Mr. Hanger (To Mr. Harris): Will you find that letter for me, please, sir?

Mr. Harris: It is March 30th, Senator.

Q. Do you recall writing that letter?

A. I did write it.

Q. That's your writing?

A. Yes, sir.

Q. That's all you recall about it, just the fact that you wrote it?

Mr. Harris: Who is it signed by?

Mr. Hanger: Signed by the Governor.

Q. Now, Mr. Davis, what is the paper that I hand you here?

A. It is a statement from the Temple State Bank of the account of James E. Ferguson, Governor. It says for the month of September 1st, 1915.

Q. Is that the statement that you received in response and reply to your letter of September 3rd, 1915?

A. Yes, sir.

Q. Mr. Davis, to go back, was a part of that money turned over to the Governor—the insurance money on the Canyon City Normal burned building—a part of the \$101,607.18 deposited in the Temple State Bank?

A. Yes, sir, a part of it was.

Q. Who sent the money to the Temple State Bank?

A. I think I sent all the money. I may have—

Q. (Interrupting.): Well, the Governor knew you were sending it there?

A. Yes, sir.

Q. Do you know how much of that was sent to the Temple State Bank?

A. You mean the entire amount that was sent there?

Q. Yes—how much of that insurance money was sent to the Temple State Bank?

A. Approximately forty-five thousand dollars.

Q. Now, the remainder was—a large part of the remainder was in the American National Bank, I believe somebody said, if you didn't. That is true, is it?

A. Yes, sir.

Q. You got the paper that is there in front of you from the Temple State Bank, did you?

A. Yes, sir.

Q. Shortly after you wrote this letter requesting it, did you?

A. That's my recollection.

General Crane: Your Honor, the examination ought not to be leading.

The Chair: Don't lead him.

Mr. Hanger: It will not be. I thought that was an immaterial matter.

Q. How long after you wrote the letter did the statement come?

A. I don't remember exactly, but in a few days.

Q. Yes. Before we go into that statement which refers to the fifty-six hundred dollars item, will you explain how, when you would draw one of these checks on the American National Bank, you would get the money from Temple, the Temple State Bank, to Austin?

A. By instructions to remit the money to Austin to the credit of James E. Ferguson, Governor.

Q. Who would issue those instructions?

A. Either the Governor or I.

Q. Would anyone else ever issue the instructions, so far as you know?

A. No, sir.

Q. You or the Governor, one, would do that?

A. I think in every instance it was by a letter to the Temple State Bank to remit whatever amount it was, ten thousand dollars or five thousand, to the American National Bank for the credit of James E. Ferguson, Governor, and charge his Governor account.

Q. Do you know how much of that fund remained—of that forty-five thousand dollars remained in the Temple State Bank after the expiration of the year 1915—in other words, how much of that forty-five thousand dollars approximately put in the Temple State Bank was drawn out during the year 1915?

A. This statement here shows that on September 1st, 1915, a balance of \$25,088, but the money was being remitted all the time. I don't know exactly how much remained in the fund at the end of the year 1915, but it is my recollection that the major portion of it had been drawn out.

Q. During the year 1915?

A. Yes, sir.

Q. Now, in whose hand writing is this, do you know—this statement that you received from the Temple State Bank?

A. It looks like the hand writing of H. F. Blum.

Mr. Hanger: It is the James E. Ferguson, Governor, account.

General Crane: Let's see it?

Mr. Hanger: All right.

Q. Mr. Davis, did this statement which I hold in my hand here and which you say you received from the bank come to you in the form that it now is?

A. There are one or two charges on it that evidently were sent in a former statement. It is not all listed in that statement, I don't believe. I may be wrong about that. I did not look over it very carefully.

Q. Well, there is one in June and one in July and one in August—two in August.

A. Let's see. That's right.

Q. They all came in that form, is that right?

A. That's true.

Q. Speak louder. It came in the shape it is in now?

A. Yes, sir.

Q. Now, did you at that time examine these charge slips—these four slips here are what they call charge slips, are they?

A. Yes, sir.

Q. Did you at that time examine them?

A. Not minutely, one by one, no, sir.

Q. Well, you saw the statement here, did you?

A. I did.

Q. The main part of the statement—

Mr. Hanger: We will read it now and offer it in evidence. James E. Ferguson, Governor, account—

Senator Bailey: Mr. President.

The Chair: Senator Bailey.

Senator Bailey: Is that 1915?

Mr. Hanger: Yes, sir, dated September 1, 1915, Senator Bailey. James E. Ferguson, Governor, account for the month of September—it says September 1, 1915, but there are four charge slips here and four notations on here. First are the charge slips, 6-11, remitted to Austin \$5000; 7-7—July 7th—remitted to Austin \$10,000; 7-10—July 10th—remitted to Austin \$5000; 7-23, remitted to Austin \$5600. Now, the charge slips, the top one and outside one reads as follows: Charge James E. Ferguson, Governor, remitted to American National, Austin—

Q. Is that "your letter"?

A. "Your letter," yes, sir.

Mr. Hanger: Your letter June 10, \$5000, Temple State Bank, 6-11-15. The second one: Charge James E. Ferguson, Governor, remitted to American National Bank, Austin, \$10,000.

Q. Is that "remitted"?

A. "Remittance."

Mr. Hanger: Oh, remittance. Remittance to American National Bank, Austin, \$10,000, Temple State Bank, Temple, Texas, July 7, 1915.

Q. Mr. Davis, in handling papers, state whether or not from your experience in handling papers that they become soiled, the more papers that are handled.

A. That is true, yes, sir.

Q. I call your attention to the fact that the top one of these is soiled, and the lower down that you go the cleaner they get. Charge James E.—this is the third one. Charge Jas. E. Ferguson, Governor, Remittance, American National, Aus-

tin, \$5000, Temple State Bank, Temple, Texas, August 10, 1915. The statement on here appears to be July 10, but should be, evidently, August 10, is that right?

A. Yes, sir, that is correct, I think.

Q. The fourth, and last, charge Jas. E. Ferguson, Governor, \$5000—no, note, First National, Temple, note five thousand dollars, interest six hundred dollars, note mailed to Austin, Temple State Bank, Temple, August 23, 1915, total \$5600. Did you ever get a note from them?

A. No, sir.

Q. Did you see this charge slip until this matter came up—

General Crane: I think that is leading, Mr. President.

The Chair: Don't lead the witness.

Mr. Hanger: I want a ruling if it's admissible, if he ever saw the charge slip?

General Crane: That's not the question he is asking? Let him ask him when he first saw it, if he knows.

Q. Did you see it at the time it was received, this charge slip?

A. No, sir.

Q. Did you go through the charge slips and read each charge slip?

A. I did not.

Q. Did you know at that time that a part of this money had been used to pay a note?

A. No, sir.

Q. When was the first time that you knew that or ever had any idea of it?

A. The latter part of July of this year.

Q. Now, whose hand writing are the charge slips in, if you know?

A. They are all in the hand writing of C. A. Hughes.

Q. What position did he then hold with the bank?

A. Cashier.

Q. Where is C. A. Hughes now?

A: In Temple, I suppose.

Q. Has he been here under process of the House Managers as a witness?

A. I have seen him here.

General Crane: Did you answer that you knew?

A. I say I have seen him in town.

General Crane: Oh, yes.

Q. You said that you first saw this charge ticket, first knew of its existence or rather first knew what was on it about a month ago?

A. That is nearly two months ago.

Q. Where was that and what was the occasion?

A. When I appeared before the Travis County grand jury.

Q. Under process?

A. Yes, sir.

Q. So far as you know, had up to that time the Governor ever seen either the statement or the account which stated that this \$5600 had been remitted to Austin, or the charge slip which stated that a note had been paid with it?

A. He did not.

Q. Well, how do you know he had not seen it, where was it kept?

A. It was kept in the safe in the Governor's office.

Q. In whose possession?

A. Mine.

Q. Does the Governor know the combination to that safe?

A. If he does, I don't know it. He always asks me to open it.

Q. Now this statement here said that these four items, the first five thousand, the second, ten thousand, the third five thousand, the fourth fifty-six hundred, had been remitted to Austin?

A. It says that, yes, sir.

Q. Did you know when you saw that whether or not the Governor had ordered that last amount remitted to Austin?

A. I did not.

Q. What was your belief about it when you saw it?

General Crane: I object to that, let him tell whatever he knows.

Mr. Hanger: I want to know why he didn't look further into it.

The Chair: The objection is overruled.

General Crane: All right.

A. The reason why it never occurred to me that any other charge would be made against that account.

Q. Now, Mr. Davis, something has been said here about a mistake in the Temple State Bank in charging \$6,156.00 to the special account when it should have been charged to the Canyon City Normal account? Did you know about that at the time?

A. I have only learned that recently.

Q. You didn't know that—

A. (Continuing): Pardon me, Mr. Hanger, we were right about the \$5,600.00 item there.

Q. Yes, sir?

A. The last question was \$6,156.00. Senator Hudspeth: Did I catch the witness' answer, the Governor never saw the charge?

A. Yes, sir.

Q. Notwithstanding the fact that the \$5,600.00 was paid at Temple, was charged at Temple, how much was paid out on the Canyon City Normal construction of the main building, out of the insurance money?

A. With the exception of one thousand dollars to George Endress—

Q. Well, add that in?

A. That is added in.

Q. Add that in?

A. \$101,607.18.

Q. And that is exactly to a cent what you got?

A. Absolutely.

Q. Now, Mr. Davis, on the books of the Temple State Bank introduced here the other day appeared an item of \$1,297.50 in the Governor's account. Do you know what that was?

A. That was a part of \$2,000.00 deposited by Mrs. Norval with the Governor, and designated on this book as the King's Highway.

Q. Well, what was the King's Highway fund—you mean the King's Highway fund, don't you?

A. That is true.

Q. What was the King's Highway fund?

The Chair: Just a minute. I would like for you to keep quiet up in the gallery, also down in the Chamber.

A. It was my understanding of that fund, I may be wrong about it, this, I don't know the purpose of it, but my understanding of it was she had collected this money from various contributors for the purpose of marking a trail down in the southern part of Texas, somewhere.

Q. Now, how was that paid out? I don't mean the manner of payment, but upon what sort of a showing, upon what sort of a representation?

A. There have only been two items drawn against that account.

Q. What are those items?

A. One of them is an expense account of B. N. Zively, sworn to—

Q. You needn't go into detail, how much was it?

A. The amount of it is \$192.25.

Q. What is the other amount?

A. It is to the same party, \$260.90.

Q. What is the total—was that for work in connection with the matter?

A. For surveying a road.

Q. Now, you say there was \$1.

297.50 put in the Temple State Bank to the Governor's account. Where was the other put?

A. In the American National Bank at Austin.

Q. To what account?

A. Jas. E. Ferguson; Governor.

Q. When was that put in the Temple State Bank?

A. It was sent over here on December 20, 1915.

Q. When was the balance, the remainder put in the American National Bank?

A. On the same date.

Q. When were those payments made?

A. One was made on July 6.

Q. What year?

A. 1917, and the other on August 9, 1917.

Q. What bank was that paid out of?

A. The Temple State Bank.

Q. Both of those items?

A. Yes, sir.

Q. Where is the balance, the remainder, of \$702.50?

A. Should be in the American National Bank,—no, I beg your pardon, that money has been turned over by Governor Ferguson.

Q. Now, is there any of that yet in the Temple State Bank? I believe the evidence shows that it was, though, so you needn't answer that.

Senator Hudspeth: That is just a conclusion.

Mr. Hanger: I think that Blum said there was some of that still in the Temple State Bank.

Q. How much of that is yet in the Temple State Bank?

A. \$844.35.

Q. How is that amount derived?

A. By adding the two items which I have read, and subtracting them from, the \$1,297.50.

Q. Now, what is the balance of the \$2,000 after deducting four hundred and some dollars from it?

A. \$844.35, do you mean the balance in the whole fund, the entire fund?

Q. Yes.

A. \$1,546.85.

Q. Where is that \$1,546.85 now?

A. It has been delivered to Acting Governor Hobby.

Q. There has been some testimony here about \$3,050 collected by the Governor in St. Louis, and deposited to the Governor's account in some bank. What bank was that?

A. The American National at Austin.

Q. How much was that?

A. \$3050 deposited on March 4, 1916, and on July 14, from the American Indemnity Company at Galveston refund on bond of J. R. Simms, \$223.58.

Q. How much does that make?

A. \$3,273.58.

Q. Now, is that all in there, is there anything to be charged against that, or not?

A. There seems to have been issued on July 24, 1916, a check to George M. Bowie, for rent on building used as armory in Weatherford, and not paid by Captain Simms, \$157.54.

Q. Now, that is the balance there after adding the two hundred and some odd dollars item, and subtracting the other?

A. \$3,115.04.

Q. What has become of that money?

A. That has been delivered to Acting Governor Hobby.

Q. Do you know when that was done?

A. The 25th day of August.

Q. When, with reference to the time that he took charge or assumed the duties of the Governor's office, or duties of Acting Governor?

A. That same morning.

Q. Have you a memorandum showing the additions and the subtractions in the payments?

A. I only figured that on this book.

Q. What is the total, add them up—is there any other item there that goes into that calculation or not?

A. There is another item of \$30.61.

Q. What is that?

A. It must have been received on February 13, 1917, from Henry Hutchings, Adjutant General, unused portion of relief funds disbursed by him at Bay City, February 15, 1915.

Q. What did you do with that?

A. That was turned over to Acting Governor Hobby.

Q. Now what was the total check, what is the total amount of those three items, the Adjutant General funds, the storm fund, the balance of the storm fund, and the King's Highway fund?

A. \$4,693.50.

Q. State that again, please, not

that the stenographer did not get it, but I did not.

A. \$4,693.50.

Q. Now, was all of that turned over to Acting Governor Hobby by the Governor?

A. It was.

Q. On the morning that Governor Hobby assumed the duties of Governorship?

A. Yes, sir.

Q. In what way?

A. By the Governor's personal check.

Senator McNealus: Mr. President.

The Chair: The Senator from Dallas.

Senator McNealus: I learn from counsel it will be an hour or two before he is through with the witness. I think it is time for the Court to rise, and I move that the Court rise until ten o'clock tomorrow morning.

The Chair: Senator from Dallas now moves that the Court now rise till ten o'clock tomorrow morning. Those in favor of the motion will say "aye," those opposed "nay." The motion prevails and the Court now rises until ten o'clock tomorrow morning.

(Thereupon, at 5 o'clock p. m., upon motion of Senator McNealus, the Court recessed until 10 o'clock a. m., Friday, September 14, 1917.)

In the Senate.

President Pro Tem. Dean in the Chair at 5 o'clock p. m.

Senate Bill No. 8—Free Conference Committee Elected.

I move that the Senate refuse to concur in House amendments to Senate Bill No. 8, and ask for a Free Conference Committee, and that Henderson, Bailey, Bee, Johnston of Harris, and McNealus be elected as Committee on the part of the Senate.

HUDSPETH.

The motion was read and adopted, carrying the election of the committee named.

Simple Resolution No. 20.

(By unanimous consent.)

Today being the anniversary of the birthday of the "sage of Palestine,"

be it resolved by this body, that we tender our congratulations to him as he successfully passes this, another of the many milestones in his career. The memory of man runneth not back to the date of his birth; but in the ancient archives of the "Holy City" we are told that a dusty volume contains this information. It matters not to this body where or when Jeff Strickland was born, but why, is the absorbing question. It may ever remain a secret why he was born, but since the "good die young," we wish for him many returns of his natal day, believing for this reason he shall conserve his energies and reach a ripe old age.

SMITH,
DAYTON.

The resolution was read and adopted by unanimous vote.

House Bill No. 2.

The Chair laid before the Senate on second reading:

H. B. No. 2, A bill to be entitled "An Act to amend Articles 1867 and 1868 of the Revised Civil Statutes of the State of Texas and to repeal all laws in conflict therewith by providing that a defendant who is in the service of the United States as a soldier shall not be required to answer to the merits of a demand sued upon during the time he is actively engaged as a soldier in the war between the United States and the imperial government of Germany, and providing that he shall be required to answer to the merits of such suit within ninety days from the date of the signing of a treaty of peace between the United States and the imperial government of Germany; and declaring an emergency."

The Senate rule requiring committee reports to lie over for one day was suspended.

The committee report that the bill be not printed was adopted.

Senator Hopkins offered the following amendments which were read and adopted, being voted on separately:

(1) By striking out Section 1 and inserting in lieu thereof the following:

Section 1. That Title 37, Chapter 6, of the Revised Civil Statutes of the State of Texas, of 1911, be amended by adding thereto after Article 1868, another Article to be known as Ar-

ticle 1868a which shall read as follows:

Article 1868a. If the citation issued be served upon a defendant after he is an enlisted sailor or soldier of the United States, he shall not be required to answer to the merits of the demand during the time he is actively engaged as a sailor or a soldier in the war between the United States and Germany; provided that he shall be required to make such answer within a period of ninety days from the signing of a treaty of peace between the United States and Germany or after being discharged from service, provided that the date and place of enlistment of the defendant, and the name of the command in which he is serving, shall be proved by sworn answer or otherwise to the court within ninety days from the date of service, and in either of such events, the cause shall remain upon the docket during the period of the war, unless the defendant shall agree by written answer that the cause may be taken up and disposed of sooner, and provided that the provisions of this act shall apply only to such soldier and sailor defendants as are, in the discretion of the trial court necessary parties defendant to the pending litigation, and then only to such debts as were contracted by such soldier or sailor prior to his enlistment or draft into the army or navy of the United States.

(2) By striking out the caption and insert in lieu thereof the following:

A BILL
To be entitled

An Act to amend Title 37, Chapter 6 of the Revised Civil Statutes of the State of Texas, by adding thereto Article 1868a, and to repeal all laws in conflict herewith, by providing that a defendant who is in the service of the United States either as a sailor or a soldier shall not be required to answer to the merits of a demand sued upon during the time he is actually engaged as either a sailor or soldier in the war between the United States and Germany, and providing that he shall be required to answer to the merits of such suit within ninety days from the date of the signing of a treaty of peace between the United States and Germany, and declaring an emergency.

The bill was read second time and passed to its third reading.

On motion of Senator Hopkins, the constitutional rule requiring bills to be read on three several days was suspended and House Bill No. 2 put on its third reading and final passage by the following vote:

Yeas—26.

Bailey.	Honkins.
Bee.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Caldwell.	McCollum.
Clark.	McNealus.
Collins.	Page.
Dayton.	Parr.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Hall.	Suiter.
Henderson.	Westbrook.

Absent.

Alderdice.	Hudspeth.
Gibson.	Woodward.
Harley.	

The bill was laid before the Senate, read third time and, on motion of Senator Hopkins, was passed by the following vote:

Yeas—27.

Alderdice.	Hopkins.
Bailey.	Johnson of Hall.
Bee.	Johnston of Harris.
Buchanan of Bell.	Lattimore.
Buchanan of Scurry.	McCollum.
Caldwell.	McNealus.
Clark.	Page.
Collins.	Parr.
Dayton.	Robbins.
Dean.	Smith.
Decherd.	Strickland.
Floyd.	Suiter.
Hall.	Westbrook.
Henderson.	

Absent.

Gibson.	Hudspeth.
Harley.	Woodward.

Simple Resolution No. 21.

(By unanimous consent..)

Whereas, W. N. Adams, formerly a member of this body, affectionately known as "Uncle Bill" is now present in the Senate Chamber,

Therefore be it resolved by the Senate, That the courtesies of the Senate be extended to him, and that he be requested to address the Senate.

HUDSPETH.
DAYTON,

The resolution was read and adopted. Ex-Senator Adams was presented to the Senate by Senator Hudspeth and made a brief address.

Message from the House.

Hall of the House of Representatives.
Third Called Session, Thirty-fifth Legislature.

Austin, Texas, Sept. 13, 1917.

Hon. W. L. Dean, President Pro Tem. of the Senate.

Sir: I am directed by the House to inform the Senate that the House grants the request of the Senate for a Free Conference Committee on Senate Bill No. 8.

The following have been appointed on part of the House: Messrs. Holland, Fisher, Dudley, Johnson and Mendell.

Respectfully,

BOB BARKER.

Chief Clerk House of Representatives

House Bill No. 3.

The Chair laid before the Senate on second reading:

H. B. No. 3, A bill to be entitled "An Act providing that in case of sales of real property of soldiers or sailors serving in the armies or navies of the United States who are in war with Germany, by virtue of deeds of trust or mortgages, where such sales are made without foreclosure suits, that before the execution of any conveyance or delivery of the property there shall first be filed a suit for the confirmation of the sales and for authority to make conveyance and delivery of the property, declaring how service shall be had in such suits and the law applicable thereto, and providing for confirmation of such sales, and declaring an emergency."

The Senate rule requiring committee reports to lie over one day was suspended.

The committee report that the bill be not printed was adopted.

Senator Bailey offered the following amendment which was read and adopted:

Insert Section 2 after Section 1 of the bill.

"Section 2. Nothing contained in this Act shall in anywise affect or apply to existing laws governing the foreclosure of any deed of trust, mortgage or other lien upon any real property, not owned by such soldier or sailor at the time of his enlistment and subsequently conveyed to him encumbered by such deed of trust, mortgage or other lien."

Number the emergency clause Section 3, instead of 2.

BAILEY.
BEE.

The bill was read second time and passed to its third reading.

On motion of Senator Hopkins, the constitutional rule requiring bills to be read on three several days was suspended and House Bill No. 3 put on its third reading and final passage by the following vote:

Yeas—27.

Bailey.	Hopkins.
Bee.	Hudspeth.
Buchanan of Bell.	Johnson of Hall.
Buchanan of Scurry.	Johnston of Harris.
Caldwell.	Lattimore.
Clark.	McCollum.
Collins.	McNealus.
Dayton.	Parr.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Gibson.	Suiter.
Hall.	Westbrook.
Henderson.	

Absent.

Alderdice.	Page.
Harley.	Woodward.

The bill was laid before the Senate, read third time and, on motion of Senator Hopkins, was passed by the following vote:

Yeas—27.

Bailey.	Dean.
Bee.	Decherd.
Buchanan of Bell.	Floyd.
Buchanan of Scurry.	Gibson.
Caldwell.	Hall.
Clark.	Henderson.
Collins.	Hopkins.
Dayton.	Hudspeth.

Johnson of Hall.	Robbins.
Johnston of Harris.	Smith.
Lattimore.	Strickland.
McCollum.	Suiter.
McNealus.	Westbrook.
Parr.	

Absent.

Alderdice.	Page.
Harley.	Woodward.

Senator Hopkins moved to reconsider the vote by which the bill was passed and table the motion to reconsider.

The motion to table prevailed.

House Bill No. 8.

(By unanimous consent.)

The Chair laid before the Senate on second reading:

H. B. No. 8, A bill to be entitled "An Act to amend Sections 1, 2 and 8 of Chapter 181, General Laws enacted at the Regular Session of the Thirty-fifth Legislature, establishing 'standard containers' and 'standard packs and grades' for fruits and vegetables and to add thereto Section 2a, and declaring an emergency."

Senator Strickland offered the following amendments which were read and adopted seriatim:

(1) Amend page 1, Section 1, by striking out the figure 2 in line 21.

(2) Amend the caption by striking out the figure 2 in line 15 and by adding the following after the figure and letter 2a in line 18 "defining culls" and making the term "cull" apply to all fruits and vegetables for which standard grades have been established.

(3) Amend page 3, Section 8, line 3, of House Bill No. 8, by striking out the word "grocer" and insert in lieu thereof "grower."

(4) Amend House Bill No. 8, page 2, line 17, by inserting an "e" in dimensions instead of the second "i."

(5) Amend House Bill No. 8 by striking out the figure "5" in line 20, page 2, and inserting in lieu thereof the figure "6."

The bill was read second time and passed to engrossment.

On motion of Senator Strickland, the constitutional rule requiring bills to be read on three several days was suspended, and House Bill No. 8 put

on its third reading and final passage by the following vote:

Yeas—22.

Bailey.	Hudspeth.
Buchanan of Bell.	Johnson of Hall.
Buchanan of Scurry.	Lattimore.
Caldwell.	McCollum.
Collins.	McNealus.
Dean.	Parr.
Decherd.	Robbins.
Floyd.	Smith.
Hall.	Strickland.
Henderson.	Suiter.
Hopkins.	Westbrook.

Present—Not Voting..

Gibson.

Absent.

Alderdice.	Harley.
Bee.	Johnston of Harris.
Clark.	Page.
Dayton.	Woodward.

The bill was laid before the Senate, read third time and, on motion of Senator Strickland, was passed finally.

Adjournment.

At 5:42 o'clock p. m. Senator Robbins moved that the Senate adjourn until 9:15 o'clock tomorrow morning.

The motion prevailed.

APPENDIX.

Petitions and Memorials.

Telegram.

Beaumont, Texas, Sept. 13, 1917.

Senator V. A. Collins, Austin, Texas.

By all means allow us to have one day's rest in each week. To do this the bill permitting sale of gasoline and accessories on Sunday will have to be defeated. All places here close on Sunday and everything working smoothly—automobile owners prepare for Sunday by buying gasoline and accessories on Saturday just as they do their groceries and other essentials. Please do all you can and you will be rewarded.

Luther Storey, James McDonald, Ray Viel, Jno. Settle, Jos. Davison, Albert Ligon, Jas. Ashwerth, Committee, Employes of Garage and Gasoline Filling Stations.

Committee Reports.

Committee Room,
Austin Texas, Sept. 12, 1917.

Hon. W. L. Dean, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

H. B. No. 2, A bill to be entitled "An Act to amend Articles 1867 and 1868 of the Revised Civil Statutes of the State of Texas and to repeal all laws in conflict therewith by providing that a defendant who is in the service of the United States as a soldier shall not be required to answer to the merits of a demand sued upon during the time he is actively engaged as a soldier in the war between the United States and the Imperial Government of Germany and providing that he shall be required to answer to the merits of such suit within ninety days from the date of the signing of a treaty of peace between the United States and the Imperial Government of Germany, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report the same back to the Senate, with the recommendation that it do pass and be not printed.

BAILEY, Chairman.

Committee Room,
Austin, Texas, Sept. 12, 1917.

Hon. W. L. Dean, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

H. B. No. 3, A bill to be entitled "An Act providing that in case of sales of real property of soldiers or sailors serving in the armies or navies of the United States who are in war with Germany, by virtue of deeds of trust or mortgages, where such sales are made without foreclosure suits, that before the execution of any conveyance or delivery of the property there shall first be filed a suit for the confirmation of the sales and for authority to make conveyance and delivery of the property, declaring how service shall be had in such suits and the law applicable thereto, and providing for confirmation of such sales, and declaring an emergency,"

Have had the same under consideration, and I am instructed to re-

port the same back to the Senate, with the recommendation that it do pass and be not printed.

BAILEY, Chairman.

(Floor Report.)

Senate Chamber,
Austin, Texas, Sept. 13, 1917.

Hon. W. L. Dean, President of the Senate.

Sir: We, your Committee on Counties and County Boundaries, to whom was referred

H. B. No. 11, A bill to be entitled "An Act to amend Section 37, Chapter 17 of the General and Special Laws of the State of Texas, passed at the Thirty-third Legislature at its First Called Session, being 'An Act creating the San Patricio County road system, so as to require the tax assessor to make up the tax rolls of said county by defined road districts, instead of by justice precincts, by adding a new section to be designated as Section 37a; fixing a compensation of the tax assessor, and declaring an emergency.'"

Have had the same under consideration and beg leave to report the same back to the Senate with the recommendation that it do pass and be not printed.

Parr, Chairman; Woodward, Smith.

Floor Report.

Senate Chamber,
Austin, Texas, Sept. 13, 1917.

Hon. W. L. Dean, President of the Senate:

We, your Committee on Public Lands and Land Office, to whom was referred

S. B. No. 22, A bill to be entitled "An Act to provide that the owners of public free school land purchased from the State of Texas after January 1, 1907, and prior to January 1, 1917, on condition of settlement and residence which land may hereafter be forfeited for non-payment of interest as now prescribed by law provided said forfeiture was caused by reason of interest accrued or accruing prior to taking effect of this Act, shall have the right to repurchase not to exceed a complement of eight sections of said lands and leaving any lien or valid contractual right existing in and to the land so repurchased unimpaired; providing for the creation of a commission to revalue such land as may be de-

sired to be repurchased under this Act; and provided that this Act become effective only as to those who are bona fide users of the land sought to be repurchased, and providing for and affidavit to be made by persons repurchasing; if demanded, and declaring an emergency."

Have had the same under consideration and we beg leave to report the same back to the Senate with the recommendation that it do pass and be not printed, but be printed in the Journal.

Parr, Chairman; Buchanan of Scurry; Hudspeth, Decherd, Hall.

By Buchanan of Scurry S. B. No. 22
and Hudspeth.

A BILL To be entitled

An Act to provide that owners of Public Free School land purchased from the State of Texas, after January 1, 1907, and prior to January 1, 1917, on condition of settlement and residence which land may hereafter be forfeited for non-payment of interest as now prescribed by law provided said forfeiture was caused by reason of interest accrued or accruing prior to the taking effect of this Act, shall have the right to repurchase not to exceed a complement of eight sections of said lands and leaving any lien and valid contractual right existing in and to the land so repurchased unimpaired; providing for the creation of a commission to revalue such land as may be desired to be repurchased under this Act; and providing that this Act become effective only as to those who are bona fide users of the land sought to be repurchased and providing for an affidavit to be made by persons repurchasing; if demanded, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. In case any of the public school land that has been purchased from the State after January 1, 1907, and prior to January 1, 1917, on condition of settlement and residence may hereafter be forfeited for the non-payment of interest in the manner now provided by law the owner of such land at the date of

forfeiture (provided the forfeiture was made by reason of interest accrued or accruing, prior to the passage of this Act) shall have the right for a period of ninety days after notice of classification and appraisal of his land, as herein provided, to repurchase any of such tracts, not to exceed one complement of eight sections upon the terms and conditions prescribed in this Act.

Sec. 3. When any of the land included within the preceding section has been forfeited for the non-payment of interest, the Commissioner of the General Land Office shall forward a list of such lands to the proper county clerk, and within thirty days after the receipt of said list by the clerk, the owner mentioned in the preceding section, who may wish to repurchase any or all of the land, not to exceed one complement of eight sections, shall advise the Commissioner of the General Land Office of such wish. As soon as practicable after the receipt of such advice by the Commissioner, he shall furnish the Board of Appraisers hereinafter provided for, a complete list of all such lands, together with the names of all persons who have advised him of their desire to repurchase their said lands, giving the postoffice address of each person, as well as such other information he may have in his possession as will enable said Board to properly appraise said lands as hereafter provided.

Sec. 3. There is hereby created a Board of Appraisers, consisting of three members, to be composed of the Commissioner of the General Land Office, and two members to be appointed by the Governor of the State. Said Board shall organize, take the constitutional oath of office and elect one of its members chairman and one secretary thereof, which Board and each member thereof shall have the power to administer oaths and take testimony by depositions or otherwise, and said Board when organized shall notify the Commissioner of the General Land Office of the facts of its organization, and that it is ready to receive from him the list of lands, names of forfeiting purchasers, and other information and data, as provided for in Section 2 of this Act. Upon receipt of such data and information, said Board shall ascertain the reason-

able values of said land and appraise accordingly, and shall prepare triplicate notices of the appraisement and classification, sending one to each of the forfeiting owners and to the Commissioner of the General Land Office, and retaining one in its possession until the completion of its duties under this Act; when same together with all the papers and data in the possession of said Board, shall be deposited by the secretary thereof with the Commissioner of the General Land Office, who shall keep same on file in his office as an archive thereof. If such forfeiting owner desires to repurchase the land at the appraised value placed thereon by said Board he shall file his application therefor in the General Land Office, within ninety days after the date of notice of appraisement, together with one-fortieth of the appraised value and his obligation for the remaining portion of the purchase price bearing three per cent interest per annum. The said one-fortieth cash payment shall conform to the requirements now prescribed for the first payment on applications for the purchase of other public free school lands. Before any application shall be accepted and the award issued thereon under the rights herein given, the applicant shall deposit in the General Land Office for the use of the general fund a sum of money equal to seven and one-half (\$7.50) dollars for each section of land awarded herein for the purpose of reimbursing said fund for the moneys drawn therefrom under the provisions of this Act, and the Treasurer shall place same to the credit of the general fund. All terms, conditions and penalties now provided for the sale of public free school lands shall apply, govern and control all sales made under this Act, except as may be otherwise provided herein. If the land purchased under the right given herein shall have been resided upon for three years as required by law prior to the date of purchase, and sufficient proof of that fact shall be in the General Land Office, the purchaser shall not be required again to reside on it; but, if such residence shall not have been completed prior to the date of repurchase, then the purchaser shall purchase the land upon condition of settlement and residence and continue to reside upon the land in per-

son until he shall have completed the required three years of continued residence next succeeding the date that the original residence was begun.

Sec. 4. If the owner, at the date of forfeiture, shall not exercise his right to repurchase, the Commissioner of the General Land Office, shall again place the land on the market as now provided by law for the sale of leased land. In all such sales the same terms, conditions, limitations, pains and penalties and regulations now prescribed by law for the sale of other free school land in the same county and the payments therefor, shall govern such sales.

Sec. 5. Provided that whenever any land, affected by this Act, is forfeited and afterwards repurchased under the rights of purchase, given by this Act, to the owner at the time of forfeiture, any lien legal or equitable, and any valid contractual right in favor of any person, firm or corporation, existing against, in and to, said land, or any part of same at the time of forfeiture, shall remain unimpaired and in full force and effect as if no such forfeiture had occurred.

Sec. 6. Each member of the Board of Appraisers provided for by this Act, except the Commissioner of the General Land Office shall receive as compensation for his services, the sum of ten dollars per day for each day actually employed in the performance of his duties as a member of said board, not to exceed ninety days together with all necessary expenses of the Commissioner of the General Land Office; provided, however, that the number of days of actual service for which said member shall have received compensation, as well as expense incurred by said board in the performance of its duties, shall be stated under oath in writing by said board or member thereof, and which, when approved by the Governor, shall be filed with the Comptroller, who shall thereupon issue a warrant upon the State Treasury for the same. There is hereby appropriated the sum of five thousand dollars or so much thereof as may be necessary to carry out the provisions of this Act.

Sec. 7. Provided that the rights and privileges granted to owners of school land by this Act, shall not be effective unless such owner be an

actual bona fide user of the land to be repurchased by said owner under this Act, and still further provided, that the person seeking to repurchase any land under this Act, shall if required by the Commissioner of the General Land Office, make affidavit that he is a bona fide user of the land which is sought to be repurchased under this Act, and such land was bought for the personal use of the purchaser and is being so used; and furnish satisfactory proof to the Commissioner of the General Land Office that the facts set forth in said affidavit are true, if such proof be demanded by said Commissioner.

Sec. 8. The fact that on account of several consecutive years of drouth in that part of the State in which most of the public lands are situated and a great number of the purchasers have been and are unable to pay the interest due and to become due on said lands, and said lands therefore are now, or soon will be, subject to forfeiture for the non-payment of interest, and said forfeiture would work a great loss to the available school fund, creates an emergency and an imperative public necessity exists that the constitutional rule be suspended, requiring bills to be read on three several days, shall be suspended, and that this bill be placed upon its third reading and final passage, and take effect from and after its passage.

Engrossing Committee Reports.

Committee Room,
Austin, Texas, Sept. 13, 1917.

Hon. W. L. Dean, President Pro Tem.
of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 10 carefully compared and find the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room,
Austin, Texas, Sept. 13, 1917.

Hon. W. L. Dean, President Pro Tem.
of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 13 carefully compared and find the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room,
Austin, Texas, Sept. 13, 1917.

Hon. W. L. Dean, President Pro Tem.
of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 11 carefully compared and find the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room,
Austin, Texas, Sept. 13, 1917.

Hon. W. L. Dean, President Pro Tem.
of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 7 carefully compared and find the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room,
Austin, Texas, Sept. 13, 1917.

Hon. W. L. Dean, President Pro Tem.
of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 16 carefully compared and find the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room,
Austin, Texas, Sept. 13, 1917.

Hon. W. L. Dean, President of the
Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 9 carefully compared and find the same correctly engrossed.

ALDERDICE,
Chairman.

ELEVENTH DAY.

Senate Chamber,
Austin, Texas,
Friday, Sept. 14, 1917.

The Senate met at 9:15 o'clock a. m. pursuant to adjournment, and was called to order by President Pro Tem. Dean.

The roll was called, a quorum being present, the following Senators answering to their names:

Alderdice.	Dean.
Bailey.	Decherd.
Bee.	Floyd.
Buchanan of Bell.	Gibson.
Buchanan of Scurry.	Hall.
Caldwell.	Harley.
Clark.	Henderson.
Collins.	Hopkins.
Dayton.	Hudspeth.